

**FILED**

**UNITED STATES DISTRICT COURT  
Northern District of Oklahoma**

MAR 29 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

v.

Case Number 94-CR-175-001-BU

SHELIA DIANE SHARP aka: Shelia Diane Scott, Shelia Diane Slaughter, and Shelia Slaughter Scott  
Defendant.

ENTERED ON DOCKET

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

DATE 3-29-96

The defendant, SHELIA DIANE SHARP, aka: Shelia Diane Scott, Shelia Diane Slaughter, and Shelia Slaughter Scott, was represented by Fred Schraeder.

On motion of the United States the court has dismissed count(s) 1-14 and 16-29 of the Indictment.

The defendant pleaded guilty to count(s) 15 of the Indictment on December 4, 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 1344(1), and 2(b)	Bank Fraud and Causing a Criminal Act	05/04/93	15

As pronounced on March 22, 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) 15 of the Indictment, which shall be due immediately.

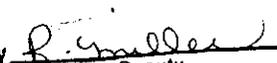
It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this the 29 day of March, 1996.

  
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. Phil Lombardi, Clerk

Defendant's SSN: 445-62-2953  
Defendant's Date of Birth: 08/22/59  
Defendant's mailing address: 4811 N. Denver, Tulsa, OK 74126  
Defendant's residence address: C/O Tulsa County Jail, 500 N. Denver, Tulsa, OK 74103

By   
Deputy

Defendant: SHELIA DIANE SHARP aka Shelia Diane Scott, Shelia  
Case Number: 94-CR-175-001-BU

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 16 months.

The Court makes the following recommendations to the Bureau of Prisons: The Court recommends to the Bureau of Prisons that the defendant be placed at a facility that can adequately address her substance abuse and provide treatment for such during service of this sentence.

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: SHELIA DIANE SHARP aka Shelia Diane Scott, Shelia  
Case Number: 94-CR-175-001-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 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.
7. The defendant shall participate in a program of mental health treatment (to include inpatient), as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Officer.

### STANDARD CONDITIONS OF SUPERVISION

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

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

Defendant: SHELIA DIANE SHARP aka Shelia Diane Scott, Shelia  
Case Number: 94-CR-175-001-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:	15
Criminal History Category:	IV
Imprisonment Range:	30 months to 37 months - Ct. 15
Supervised Release Range:	3 to 5 years - Ct. 15
Fine Range:	\$ 4,000 to \$ 1,000,000 - Ct. 15
Restitution:	\$ 50,348.95

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

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

FILED

MAR 25 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 95-CR-056-001-B

SANTIAGO RIOS  
Defendant.

ENTERED ON DOCKET  
DATE MAR 25 1996

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

The defendant, SANTIAGO RIOS, was represented by James O. Goodwin and Stanley Monroe.

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

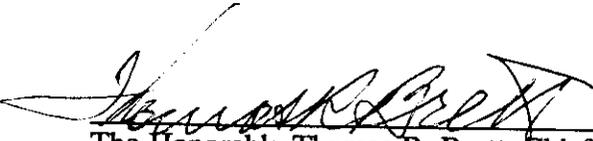
Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
21 USC 841(a)(1)	Distribution of Cocaine	12/07/93	1

As pronounced on March 15, 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.

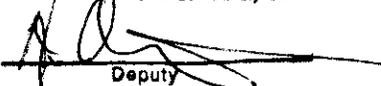
Signed this the 25<sup>th</sup> day of March, 1996.

  
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.

Phil Lombardi, Clerk

By   
Deputy

Defendant's SSN: 452-64-6821

Defendant's Date of Birth: 05/01/42

Defendant's residence and mailing address: Route 8, Box 495, Tulsa, OK 74106

Defendant: SANTIAGO RIOS  
Case Number: 95-CR-056-001-B

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 188 months, to run concurrently with Counts 1 and 2 of Case No. 95-CR-159-002-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: SANTIAGO RIOS  
Case Number: 95-CR-056-001-B

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years, term to run concurrently with terms in Case No. 95-CR-159-002-B.

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 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: SANTIAGO RIOS  
Case Number: 95-CR-056-001-B

**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 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: SANTIAGO RIOS  
Case Number: 95-CR-056-001-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:	35
Criminal History Category:	II
Imprisonment Range:	188 months to 235 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 20,000 to \$ 9,000,000
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 exceeds 24 months, and the sentence is imposed for the following reason(s): A minimum sentence is imposed because of the defendant's age and because his conduct was fully taken into consideration in the application of the guidelines.

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UNITED STATES DISTRICT COURT **FILED**  
Northern District of Oklahoma

MAR 25 1996

UNITED STATES OF AMERICA

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

v.

Case Number 95-CR-159-002-B

SANTIAGO RIOS  
Defendant.

ENTERED ON DOCKET  
DATE MAR 25 1996

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

The defendant, SANTIAGO RIOS, was represented by James O. Goodwin and Stanley D. Monroe.

The defendant pleaded guilty to count(s) 1 and 2 of the Indictment on January 23, 1996. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

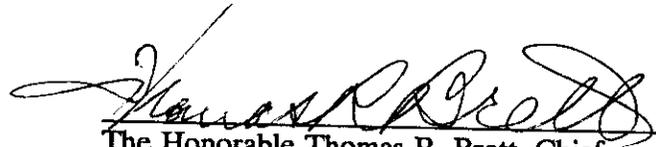
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 USC 846, 21 USC 841(a)(1), 18 USC 3147	Conspiracy to Distribute Cocaine, Possession With Intent to Distribute Cocaine and Commission of a Felony While on Release	11/28/95	1
21 USC 841(a)(1), 18 USC 3147	Distribution of Cocaine and Commission of a Felony While on Release	11/28/95	2

As pronounced on March 15, 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 each, for count(s) 1 and 2 of the Indictment, which shall be due immediately.

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

Signed this the 25 day of March, 1996.

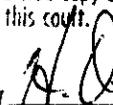
  
The Honorable Thomas R. Brett, Chief  
United States District Judge

Defendant's SSN: 452-64-6821

Defendant's Date of Birth: 05/01/42

Defendant's residence and mailing address: Route 8, Box 495, 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. Phil Lombardi, Clerk

By   
Deputy

Defendant: SANTIAGO RIOS  
Case Number: 95-CR-159-002-B

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 188 months and 2 days; 188 months on Count 1, and 188 months on Count 2, to run concurrently, and concurrent to the sentence imposed in ND/OK, Case No. 95-CR-56-B. As to the 18 USC § 3147 violation contained in each of Counts 1 and 2, the Court satisfies the consecutive sentencing requirement by imposition of one additional day as to Counts 1 and 2, to run consecutively to each other, and consecutive to the 188 months imposed for the 21 USC §§ 846, 841(a)(1) violations, for a total sentence of 188 months and 2 days.

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: SANTIAGO RIOS  
Case Number: 95-CR-159-002-B

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years as to Counts 1 and 2, 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 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: SANTIAGO RIOS  
Case Number: 95-CR-159-002-B

**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.

This amount is the total of the fines imposed on individual counts, as follows: \$1,500 on Count 1 and \$1,500 on Count 2.

The defendant shall pay a fine of \$ 3,000.00. 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: SANTIAGO RIOS  
Case Number: 95-CR-159-002-B

**STATEMENT OF REASONS**

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

**Guideline Range Determined by the Court:**

Total Offense Level:	35
Criminal History Category:	II
Imprisonment Range:	188 months to 235 months - Cts. 1 & 2
Supervised Release Range:	5 years - Cts. 1 & 2
Fine Range:	\$ 20,000 to \$ 9,000,000 - Cts. 1 & 2
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 reason(s): A minimum sentence is imposed because of the defendant's age and because his conduct was fully taken into consideration in the application of the guidelines.

*lhu*

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

FILED

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

JARED S. GRAMMER, )

Defendant. )

No. 95-CR-68-BU

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

MAR 22 1996

ENTERED ON DOCKET

DATE MAR 22 1996

ORDER

Now on this 22 day of March, 1996 this cause comes on to be heard in the matter of the plaintiff's Motion for Leave to Dismiss, without prejudice, the Information against defendant Jared S. Grammer in the above styled cause. The Court finds that said request ought to be granted and the Information against defendant Jared S. Grammer is dismissed, without prejudice.

IT IS SO ORDERED.

s/ MICHAEL BURRAGE

\_\_\_\_\_  
MICHAEL BURRAGE  
United States District Judge

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 ROBERT EUGENE DUNLAP, )  
 )  
 Defendant. )

96 C 85 K  
MAR 22 1996  
No. 94-CR-129-K  
**FILED**  
MAR 21 1996  
Richard M. Lawrence, Court Clerk  
U.S. DISTRICT COURT

ORDER

Before the Court is the motion of defendant Dunlap pursuant to 28 U.S.C. §2255. Defendant was charged by indictment with one violation of 18 U.S.C. §922(g)(1) and one violation of 18 U.S.C. §924(c). On November 9, 1994, defendant pled guilty to Count II (18 U.S.C. §924(c)) and was sentenced to the mandatory sixty months. Count I was dismissed. On February 7, 1996, defendant filed the present motion, asserting his guilty plea should be vacated in light of Bailey v. United States, 116 S.Ct. 501 (1995). Bailey restricted the factual circumstances under which a §924(c) conviction is appropriate.

In response, the government asks for an evidentiary hearing to determine if sufficient evidence exists for a conviction, or in the alternative, reinstatement of the indictment. Defendant has filed no reply to the response. An evidentiary hearing seems unnecessary, because the record is clear defendant pled guilty pursuant to the pre-Bailey standard. Under similar circumstances, courts have permitted reinstatement of the indictment. Cf. Fransaw v. Lynaugh, 810 F.2d 518, 524-525 (5th Cir.1987). A new seventy-

1312

day time limit is appropriate under 18 U.S.C. §3161(e) of the Speedy Trial Act.

It is the Order of the Court that the motion of the defendant Robert Eugene Dunlap pursuant to 28 U.S.C. §2255 is hereby GRANTED. The defendant's guilty plea, conviction and sentence are hereby VACATED. The indictment in this case is reinstated in its entirety. The Court Clerk's Office is directed to send notice of new motion deadlines, pretrial date, and trial date. The motion of the defendant for expedited hearing (#11) is hereby DENIED.

ORDERED this 21 day of March, 1996.

  
PERRY C. KERN  
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT  
Northern District of Oklahoma**

**MAR 22 1996**

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

UNITED STATES OF AMERICA

v.

Case Number 95-CR-116-001-C

ENTERED ON DOCKET

Clanton T. Bennett  
Defendant.

DATE 3/22/96

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

The defendant, Clanton T. Bennett, was represented by Steven Greubel.

The defendant pleaded guilty to count(s) 1 (One) of the Indictment on November 28, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18:2113(a)	Bank Robbery	4/21/95	1

As pronounced on March 20, 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, 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 22<sup>d</sup> day of March, 1996.

*H. Dale Cook*  
\_\_\_\_\_  
H. Dale Cook  
United States District Judge

Defendant's SSN: 156-38-8951  
Defendant's Date of Birth: 05/27/49  
Defendant's residence and mailing address: 315 South Carrizo, Corpus Christi, TX 78401

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

Richard M. Lawrence, Clerk  
By *B.M. Callough*  
Bounty

Defendant: Clanton T. Bennett  
Case Number: 95-CR-116-001-C

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 170 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: Clanton T. Bennett  
 Case Number: 95-CR-116-001-C

### SUPERVISED RELEASE

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

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

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall 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.
- 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: Clanton T. Bennett  
Case Number: 95-CR-116-001-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 \$ 1,000. 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: Clanton T. Bennett  
Case Number: 95-CR-116-001-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:	29
Criminal History Category:	VI
Imprisonment Range:	151 months to 188 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 15,000 to \$ 150,000
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 reason(s): All factors were included and the defendant does have a significant criminal history record.

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED  
21  
MAR 18 1996

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

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
SCOTT EDWARD DODSON, )  
 )  
Defendant. )

No. 96-CR-015-B ✓

ENTERED ON DOCKET  
MAR 22 1996  
DATE \_\_\_\_\_

ORDER OF DISMISSAL

The above styled and numbered cause came on for hearing before this Court upon the motion of the United States to dismiss the Indictment now pending against the defendant in said matter. The Court, after reviewing the file and the matters contained therein, and based upon the motion and the reasons stated therein, finds as follows:

1. On March 12, 1996, the government filed herein an Information alleging that the defendant, on the 6th day January, 1996, violated the provisions of Title 18, United States Code, Section 1701 - Obstruction of Mails, a misdemeanor;

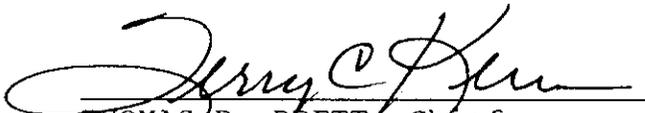
2. On March 18, 1996, the defendant, in person and with his attorney, Stephen J. Knorr, Esq., made his initial appearance on the Information before the Honorable Frank H. McCarthy, United States Magistrate Judge, at which time defendant entered his plea of guilty to the Information;

3. Based upon defendant's plea of guilty to the Information, the United States Magistrate Judge found the defendant guilty and set sentencing in the matter for the 17th day of June, 1996; and,

4. The Indictment now pending against the defendant should be dismissed with the dismissal to be with prejudice to the refiling thereof thirty days from and after the defendant is sentenced on the Information.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Indictment now pending against the defendant in the United States District Court, Case No. 96-CR-015-B, be, and the same is hereby, dismissed, with the dismissal to be with prejudice to the refiling of said Indictment thirty days from and after final sentencing of the defendant on the Information now pending before the United States Magistrate Judge.

Dated this 21 day of March, 1996.

for   
THOMAS R. BRETT, Chief  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

CARMEN R. WORKS  
Defendant.

Case Number 95-CR-135-001-H

**FILED**  
MAR 18 1996

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

ENTERED ON DOCKET  
DATE MAR 12 1996

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

The defendant, CARMEN R. WORKS, was represented by David C. Phillips III.

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

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 1014	Misapplication of Financial Institution Funds	09/07/94	1

As pronounced on March 5, 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 18<sup>th</sup> day of MARCH, 1996.

  
The Honorable Sven Erik Holmes  
United States District Judge

Defendant's SSN: 445-74-0828

Defendant's Date of Birth: 12/17/62

Defendant's residence and mailing address: 1607 N. Main St., Tulsa, OK 74106

Q

Defendant: CARMEN R. WORKS  
Case Number: 95-CR-135-001-H

**IMPRISONMENT**

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

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 10:00 a.m. on April 4, 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: CARMEN R. WORKS  
Case Number: 95-CR-135-001-H

### 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 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: CARMEN R. WORKS  
Case Number: 95-CR-135-001-H

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$3,580.00.

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

<b><u>Name of Payee</u></b>	<b><u>Amount of Restitution</u></b>
Bank of Oklahoma Attn: Lowell Faulkenberry P.O. Box 2300 Tulsa, OK 74192	\$3,580.00

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: CARMEN R. WORKS  
Case Number: 95-CR-135-001-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:	8
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 1,000 to \$ 1,000,000
Restitution:	\$ 3,580

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.

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

**FILED**

MAR 19 1996

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

GEORGIANA ALEXANDRIA  
VILLANUEVA,

Defendant.

No. 96-CR-002-C<sup>04-</sup>

ENTERED ON DOCKET

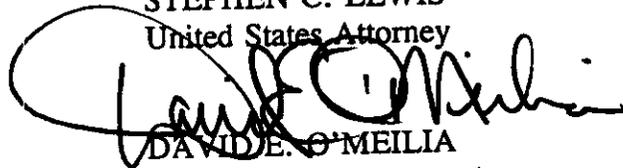
DATE 3/20/96

MOTION FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure, and by leave of court endorsed hereon, the United States Attorney for the Northern District of Oklahoma hereby moves to dismiss the Indictment against Georgiana Alexandria Villanueva, defendant.

Respectfully submitted,

STEPHEN C. LEWIS  
United States Attorney



DAVID E. O'MELIA  
Assistant United States Attorney  
3900 U.S. Courthouse  
333 West 4th Street  
Tulsa, Oklahoma 74103  
(918) 581-7463

ORDER

Leave of court is granted for the filing of the foregoing motion to dismiss and the Court hereby orders dismissal of the requested Indictment, as pertains to Georgiana Alexandria Villanueva only.

  
United States District Judge

Date: March 17, 1996

**FILED**

MAR 14 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. )  
 )  
 GERRY H. CALE, )  
 )  
 Defendant. )

Case No. 91-CR-009-E<sup>-03</sup> ✓

ENTERED ON DOCKET  
DATE MAR 15 1996

ORDER

Now before the Court is the Motion to Vacate, Set Aside or Correct Sentence (Docket #230) of the Defendant Gerry H. Cale (Cale).

In 1991, Cale was tried by a jury, convicted of conspiracy to distribute one thousand kilograms or more of marijuana and sentenced to 188 months imprisonment. He appealed his conviction and sentence, but the judgment of the Trial Court was affirmed in December 1992. United States v. Cale, 982 F.2d 1422 (10th Cir. 1992). Cale now brings this motion pursuant to 28 U.S.C. §2255, asserting ineffective assistance of counsel, error in sentencing, and prosecutorial misconduct.

**Legal Analysis**

28 U.S.C. §2255 provides in pertinent part:

A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence imposed was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

A Motion for such relief may be made at any time.

Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto.

#### I. Ineffective Assistance of Counsel

Cale claims that his counsel was ineffective at trial in that he (1) failed to call co-conspirators as witnesses; (2) failed to allow Cale to testify; (3) inappropriately moved for a mistrial in the first trial and failed to move for a mistrial in the second trial; (4) failed to request a buyer/seller instruction be made to the jury; (5) failed to investigate; and (6) failed to request a downward departure at sentencing.

The ineffective assistance of counsel claims must be viewed under the Strickland test: 1) whether defendant's attorney's performance was not reasonably effective and 2) whether defendant's defense was prejudiced thereby. Strickland v. Washington, 466 U.S. 668, 693, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Further, the Court must presume that counsel's performance was reasonably effective; "the burden rests on the accused to demonstrate a constitutional violation." U.S. v. Cronin, 104 S.Ct. 2039, 2046 (1984). Under the Strickland rule the presumption of effective representation is a strong one. Indeed, "[j]udicial scrutiny of counsel's performance must be highly deferential." Strickland, 104 S.Ct. at 2065. The Court must "presume that the challenged action might be considered sound trial strategy." Hatch v. State of Oklahoma, 58 F.3rd 1447, 1459 (10th Cir. 1995).

With respect to the related claims of failure to call codefendants as witnesses and failure to investigate, the Court finds that no prejudice resulted to the Defendant. As the Tenth Circuit noted in reviewing this matter on appeal, in light of the overwhelming evidence against the codefendants at trial, their testimony would "totally lack credibility." Cale, 982 F.2d at 1433. Thus, any failure to investigate the facts, and call codefendants as witnesses did not prejudice the defense of Cale.

Cale next argues that his counsel's refusal to let him testify at trial was "below an objective standard of reasonableness," and that he was prejudiced thereby. The government argues that the decision was a tactical one, and that the defendant did not, at the sentencing, "express outrage" at the denial of opportunity to testify on his own behalf. It is interesting to note that Cale merely asserts in his memorandum that he at no time waived his right to testify and that he objected to his counsel's decision to rest his case. Cale provides no affidavit or other evidentiary support for his assertion that his counsel would not let him testify. This "barebones assertion" is "insufficient to require a hearing or other action on his claim that his right to testify...was denied him." Underwood v. Clark, 939 F.2d 473, 476 (7th Cir. 1991).

As to the motion for mistrial at the first trial, and the failure to move for mistrial at the second trial, Cale's argument also must fail, due to his failure to make any allegations of prejudice. Cale simply does not demonstrate how the first mistrial

prejudiced his defense as is required by Strickland, nor does he specify how the failure to move for a mistrial at the second trial denied him a fair trial. As Cale himself notes, he has the burden of identifying the acts or omissions of his counsel and of affirmatively showing prejudice because of the claimed ineffectiveness. Strickland, at 2068.

The alleged errors of failure to request a buyer \seller instruction and failure to request a downward departure are similarly without merit. There is no demonstration by Cale that the failure to request the instruction fell below an objective standard of reasonableness nor that it prejudiced him in light of the Tenth Circuit ruling that his conviction for a conspiracy was supported by the evidence. The allegation that counsel failed to request a downward departure is simply not borne out by the record.

## II. Relevant Conduct used in Sentencing

Cale's second argument is that the Court erred in attributing certain conduct to him for the purposes of sentencing. In essence, he asserts that he should not have been sentenced for conduct of others of which he was "merely aware." This argument, however, was addressed by the Tenth Circuit on direct appeal and rejected.

Defendant Cale contends that he was merely a "local distributor" who only dealt with Mr. Whitmore, not Mr. Powell, after the partnership breakup, and therefore should not be held responsible for the entire quantity of drugs distributed. However, the evidence indicates that Mr. Cale continued to deal with other members of the conspiracy after 1987, including Melvin Gann and Tony McClelland. The quantity of marijuana passing through the distribution network was reasonably foreseeable to Mr. Cale even if he was merely a "local distributor."

Cale, 982 F.2d at 1435.

The Tenth Circuit has determined that the amount of marijuana attributed to Cale for sentencing was not error, therefore the issue is barred and not appropriately raised in this §2255 motion. United States v. Cook, 997 F.2d 1312, 1318 n.6 (10th Cir. 1993).

### III. Prosecutorial Misconduct

Lastly, Cale argues that prosecutorial misconduct, consisting of inappropriate statements by the prosecutor and the introduction of a firearm at trial deprived him of a fair trial.<sup>1</sup> Cale's argument with regard to the firearm, however, is not an appropriate argument for prosecutorial misconduct, but rather, a belated argument regarding an evidentiary ruling made at trial. Similarly, the alleged prejudicial statements constitute arguments regarding errors made at trial. Both of these arguments should have been made on appeal, and not for the first time in this proceeding. Cook, 997 F.2d at 1320.

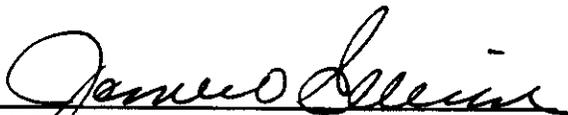
Cale also argues in his "traverse" that there is prosecutorial misconduct in the government's "knowing use of witnesses who gave false testimony." Cale, however makes this assertion without any factual support. His mere unsupported conclusory assertions are insufficient to raise a factual issue or warrant a hearing on this claim. Barker v. United States, 7 F.3d 629, 633, n.3 (7th Cir. 1993).

---

<sup>1</sup> Cale also argues that certain conduct in the first trial constitutes prosecutorial misconduct. However, since the first trial ended in a mistrial, any alleged misconduct is not relevant to the inquiry here.

Cale's Motion to Vacate, Set Aside or Correct Sentence (Docket #230) is denied.

IT IS SO ORDERED THIS 13<sup>th</sup> March 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

**F I L E D**

MAR 12 1996

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 JAMES RAY ARTBERRY, )  
 JAMES EDWARD HAYDEN, )  
 and FLOYD DEAN HAYDEN, )  
 )  
 Defendant. )

Case No. 96-CR-09-BW ✓

ENTERED ON DOCKET  
MAR 13 1996  
DATE \_\_\_\_\_

**ORDER**

Now on this 12<sup>th</sup> day of March, 1996, this cause comes on to be heard in the matter of the plaintiff's Motion for Leave to Dismiss, without prejudice, the Counts One and Two of the Indictment against defendants James Ray Artberry, James Edward Hayden and Floyd Dean Hayden in the above styled cause. The Court finds that said request ought to be granted and Counts One and Two of the Indictment against defendants James Ray Artberry, James Edward Hayden and Floyd Dean Hayden are dismissed, without prejudice.

IT IS SO ORDERED.

  
UNITED STATES DISTRICT JUDGE

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

MAR 12 1996

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

UNITED STATES OF AMERICA )  
                                   Plaintiff )  
                                   VS )  
                                   ) )  
 SHERRION LOUISE LACEY )  
                                   Defendant )

Case Number: 90-CR-055-001-E

ENTERED ON DOCKET

DATE 3/12/96

ORDER REVOKING SUPERVISED RELEASE

Now on this 29th day of February, 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 June 19, 1995. The defendant is present in person and represented by counsel, Bud Byars. The Government is represented by Assistant U.S. Attorney Rick Dunn, and the United States Probation Office is represented by Dee Ann Bernaud.

On June 24, 1992, the defendant was sentenced for Bail Jumping, in violation of 18 U.S.C. § 3146(a)(1). The defendant was committed to the custody of the Bureau of Prisons for a term of thirteen (13) months, with credit for time served. Upon release from imprisonment, she was to serve a three (3) year term of supervised release, to run concurrently with the period of probation imposed in case number 87-CR-054-001-E.

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

Richard M. Lawrence, Clerk

By B. M. Cullough  
 Deputy

Participation in a substance abuse program as directed by the probation office was also made a condition of supervised release.

On January 25, 1996, a revocation hearing was held regarding the allegations as memorialized in the Petition on Supervised Release, filed June 19, 1995. Lacey stipulated to the violations at the revocation hearing, and sentencing was set for February 29, 1996. As a result of the sentencing hearing, 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 finds that the violation of supervised release constitutes a Grade B violation in accordance with U.S.S.G. § 7B1.1(a)(2), and that the defendant's original Criminal History Category of III establishes a revocation imprisonment range of 8-14 months, pursuant to U.S.S.G. § 7B1.4(a). 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 twelve (12) months to run concurrently with the sentence imposed in case number 87-CR-054-001-E. It is recommended that the defendant be placed in an institution offering a substance abuse and alcohol treatment program, located as close to Muskogee, Oklahoma, as possible.

The defendant was remanded to the custody of the U.S. Marshal's Service pending transfer to an institution.

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

**FILED**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

MAR 12 1996

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

UNITED STATES OF AMERICA )  
Plaintiff )  
VS )  
SHERRION LOUISE LACEY )  
Defendant )

Case Number: 87-CR-054-001-E

ENTERED ON DOCKET

DATE 3/12/96

ORDER REVOKING PROBATION

Now on this 29th day of February, 1996, this cause comes on for sentencing concerning allegations that the defendant violated conditions of probation as set out in the Petition on Probation on June 19, 1995. The defendant is present in person and represented by counsel, Bud Byars. The Government is represented by Assistant U.S. Attorney Rick Dunn, and the United States Probation Office is represented by Dee Ann Bernaud.

On June 24, 1992, the defendant was sentenced for Theft of Government Property, Aiding and Abetting, in violation of 18 U.S.C. §§ 641 and 2. The imposition of sentence was suspended and Lacey was placed on probation for a term of five (5) years. In addition, she was ordered to pay restitution in the amount of \$1,372.85 to two victims, and to participate in a substance abuse program as directed by the probation officer.

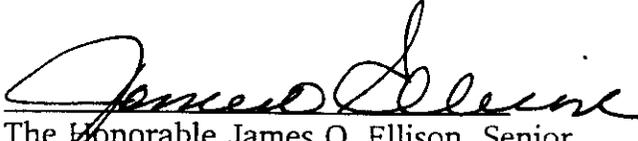
United States District Court )  
Northern District of Oklahoma ) SS  
I hereby certify that the foregoing  
is a true copy of the original on file  
in this Court.

Richard M. Lawrence, Clerk  
By B.M. Callaway  
Deputy

On January 25, 1996, a revocation hearing was held regarding the allegations as memorialized in the Petition on Probation, filed June 19, 1995. Lacey stipulated to the violations at the revocation hearing, and sentencing was set for February 29, 1996. As a result of the sentencing hearing, the Court found that the original offense occurred before November 1, 1987, and that Chapter 7 of the U. S. Sentencing Guidelines was not applicable. In consideration of these findings, the following was ordered by the Court:

The defendant is committed to the custody of the U. S. Bureau of Prisons to be imprisoned for a term of twelve (12) months to run concurrently with the sentenced imposed in case number 90-CR-055-001-E. It is recommended that the defendant be placed in an institution offering a substance abuse and alcohol treatment program located as close to Muskogee, Oklahoma, as possible.

The defendant was remanded to the custody of the U.S. Marshal's Service pending transfer to an institution.

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

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

**FILED**

MAR 11 1996

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

Case Number 95-CR-137-001-H

ENTERED ON DOCKET  
DATE 3/12/96

UNITED STATES OF AMERICA

v.

CHARLENE RAE ASHLOCK  
Defendant.

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

The defendant, CHARLENE RAE ASHLOCK, was represented by Regina Stephenson.

The defendant pleaded guilty to count(s) 1 of the Information on December 4, 1995. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

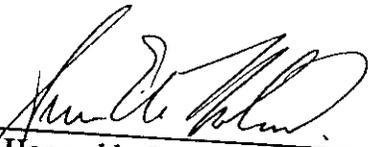
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 656	Misapplication of Bank Funds	10/03/95	1

As pronounced on March 4, 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 8<sup>TH</sup> day of MARCH, 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 B. Miller  
Deputy

Defendant's SSN: 447-82-6598

Defendant's Date of Birth: 10-28-76

Defendant's residence and mailing address: 5013 S. Toledo, Apt. #5-L, Tulsa, OK 74135

Defendant: CHARLENE RAE ASHLOCK  
Case Number: 95-CR-137-001-H

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 2 months.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 p.m. on April 3, 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: CHARLENE RAE ASHLOCK  
Case Number: 95-CR-137-001-H

Judgment--Page 3 of 4

### 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 be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 6 months, to commence within 72 hours of 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 defendant.
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: CHARLENE RAE ASHLOCK  
Case Number: 95-CR-137-001-H

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$4,500.00 on Count 1.

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

<u>Name of Payee</u>	<u>Amount of Restitution</u>
American National Bank & Trust Co. Attn: William Berry P.O. Box 1408 Sapulpa, OK 74067	\$4,500.00

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: CHARLENE RAE ASHLOCK  
Case Number: 95-CR-137-001-H

Judgment--Page 5 of 5

**STATEMENT OF REASONS**

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

**Guideline Range Determined by the Court:**

Total Offense Level:	9
Criminal History Category:	I
Imprisonment Range:	4 months to 10 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 1,000 to \$ 1,000,000
Restitution:	\$ 4,500

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.

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

**FILED**

MAR - 8 1996

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

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
KENNETH ALAN LOWE, )  
)  
Defendant. )

No. <sup>93</sup>~~94~~-CR-186-B

FILED ON DOCKET

**MAR 11 1996**

**ORDER**

The Court has before it the government's Rule 35 motion for reduction in sentence. Defendant Lowe was originally sentenced on July 15, 1994. The Court upward departed from the Sentencing Guidelines, directing that Mr. Lowe serve 237 months imprisonment in the custody of the Attorney General, Federal Bureau of Prisons, 3 years supervised release, \$100.00 special monetary assessment, and restitution of \$10,000.00. The defendant filed an appeal with the Tenth Circuit Court of Appeals and the case was thereafter remanded for resentencing.

Resentencing in District Court was held on September 22, 1995 and defendant was sentenced to a reduced term of imprisonment of 228 months in the custody of the Attorney General, Federal Bureau of Prisons, 3 years supervised release, \$100.00 special monetary assessment and restitution of \$10,000.00.

13

The government filed a Rule 35 motion on January 3, 1996 requesting defendant be granted a downward departure because of his substantial assistance to the government in the prosecution and conviction of other violent felons. A hearing was held on January 29, 1996 on the government's Rule 35 motion. The defendant was present at this hearing and waived his right to be present at any subsequent resentencing resulting from the Rule 35 motion.

Based on the motions, briefs and evidence presented, this Court hereby grants the government's motion for a downward departure of defendant Kenneth Alan Lowe's term of imprisonment and resentsences defendant Lowe to 204 months imprisonment in the custody of the Attorney General, Federal Bureau of Prisons. All other terms of the defendant's original sentence remain unchanged.

IT IS SO ORDERED, ADJUDGED AND DECREED.

  
THOMAS R. BRETT, Chief  
District Court Judge

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

FILED

MAR - 7 1996

UNITED STATES OF AMERICA

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

v.

Case Number 92-CR-050-001-B

BILLY CHARLES JACKSON  
Defendant.

ENTERED ON DOCKET

DATE MAR - 8 1996

AMENDED  
JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)  
Pursuant to 18 USC § 3582(c)(2)

The defendant, BILLY CHARLES JACKSON, was represented by Paul Brunton.

The defendant pleaded guilty to count(s) 1 and 4 of the Indictment on June 30, 1992. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

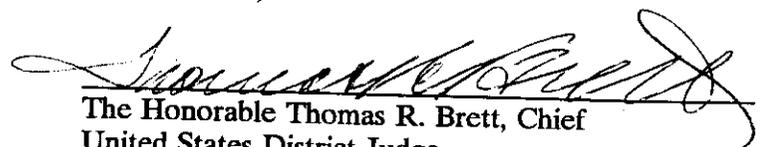
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 USC 841(a)(1) & 841(b)(1)(B)(vii)	Manufacture by Production More Than 100 Marijuana Plants	04/23/92	1
18 USC 922(g)(1)	Possessing a Firearm in Commerce After Former Conviction of a Felony	04/23/92	4

As pronounced on March 5, 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 \$ 100.00, for count(s) 1 and 4 of the Indictment, which shall be due immediately.

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

Signed this the 7<sup>th</sup> day of March, 1996.

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

Defendant's SSN: 446-56-6018  
Defendant's Date of Birth: 04/04/53  
Defendant's residence and mailing address: C/O U.S 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: BILLY CHARLES JACKSON  
Case Number: 92-CR-050-001-B

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 60 months as to Count 1, and 51 months as to Count 4, 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: BILLY CHARLES JACKSON  
Case Number: 92-CR-050-001-B

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 4 years as to Count 1, and 3 years as to Count 4, 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.

### 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 CHARLES JACKSON**  
Case Number: 92-CR-050-001-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:	22
Criminal History Category:	I
Imprisonment Range:	60 months - Ct. 1 41 to 51 months - Ct. 4
Supervised Release Range:	4 years - Ct. 1 2 to 3 years - Ct. 4
Fine Range:	\$ 7,500 to \$ 2,000,000 - Cts. 1 & 4
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.

*RPW*

**FILED**

**UNITED STATES DISTRICT COURT  
Northern District of Oklahoma**

MAR - 7 1996

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

UNITED STATES OF AMERICA

v.

Case Number 92-CR-061-B ✓

ENTERED ON DOCKET  
DATE MAR - 8 1996

BILLY CHARLES JACKSON  
Defendant.

**AMENDED  
JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)  
Pursuant to 18 USC § 3582(c)(2)**

The defendant, BILLY CHARLES JACKSON, was represented by Paul Brunton.

The defendant pleaded guilty to count(s) 1 and 2 of the Information on June 30, 1992. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

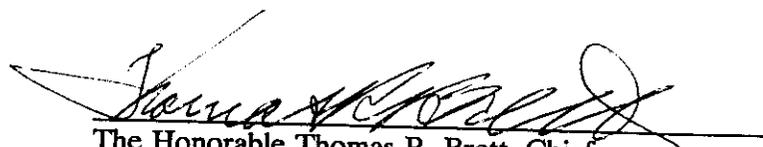
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
31 USC 5324(3) and 5322(a)	Structuring Financial Transactions	08/30/91	1 & 2

As pronounced on March 5, 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 \$ 100.00, for count(s) 1 and 2 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 7<sup>th</sup> day of March, 1996.

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

Defendant's SSN: 446-56-6018  
Defendant's Date of Birth: 04/04/53  
Defendant's residence and mailing address: C/O 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.  
By  Deputy

Defendant: BILLY CHARLES JACKSON  
Case Number: 92-CR-061-B

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 51 months as to Counts 1 and 2, each count to run concurrently, and concurrent to the terms imposed in Northern District Oklahoma Case 92-CR-050-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: BILLY CHARLES JACKSON  
Case Number: 92-CR-061-B

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to each count, to run concurrently, and concurrent with the terms imposed in Northern District Oklahoma Case 92-CR-050-B.

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.

### 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 CHARLES JACKSON  
Case Number: 92-CR-061-B

**STATEMENT OF REASONS**

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

**Guideline Range Determined by the Court:**

Total Offense Level:	22
Criminal History Category:	I
Imprisonment Range:	41 months to 51 months - Cts. 1 & 2
Supervised Release Range:	2 to 3 years - Cts. 1 & 2
Fine Range:	\$ 7,500 to \$ 2,000,000 - Cts. 1 & 2
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.

17

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 WILLIAM ERNEST NYGRO, )  
 )  
 Defendant. )

No. 95-CR-147-K

ENTERED ON DOCKET

DATE MAR 07 1996

**FILED**

MAR 06 1996 *rw*

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

ORDER FOR DISMISSAL

Now on this 6 day of March 1996 this cause comes on to  
be heard in the matter of the plaintiff's Motion for Leave to  
Dismiss, without prejudice, the Indictment against defendant  
William Ernest Nygro, in the above styled cause. The Court finds  
that said request ought to be granted and the Indictment against  
defendant William Ernest Nygro is dismissed, without prejudice.

IT IS SO ORDERED.

*Terry C. Kern*  
TERRY C. KERN  
United States District Judge

9

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

**FILED**

**MAR 6 1996**

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

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
BRIAN MAURICE FULLER, )  
)  
Defendant. )

Case No. 91-CR-143-E

FILED ON DOCKET  
MAR 06 1996

ORDER

Now before the Court is the Motion to Set Aside Judgment Pursuant to 28 U.S.C. §2255 (docket #28), the Motion to Vacate, Set Aside and Correct Illegal Sentence pursuant to 28 U.S.C. §2255 (docket #27), and the Application for Leave to Supplement Additional Facts to 28 U.S.C. §2255 Motion Currently Before the Court (docket #32) of the Defendant Brian Maurice Fuller (Fuller). Although Fuller has filed two separate motions (docket #27 and #28), the relief he is requesting in them is the same, and it appears that one motion is actually the brief in support of the other motion. Thus they will be treated together.

Pursuant to the terms of a Plea Agreement, Fuller pled guilty to one count each of conspiracy, interstate sale of stolen property and aiding and abetting, and money laundering and aiding and abetting. In the Plea Agreement, Fuller agreed not only to plead guilty to the above charges, but also agreed to forfeit all assets and take the necessary steps to pass clear title to the united States, agreed "not to perfect an appeal or to seek habeas corpus relief based on any cause other than to possibly contest the calculation of the sentence in this case," agreed that the maximum punishment he faced was thirty-five years in prison, and stated that he had reviewed and fully understood the agreement.

He was sentenced to 195 months in prison, three years supervised release, and restitution. His sentence was later reduced to 136 months in prison due to a Rule 35(b) motion being filed by the government for Fuller's substantial assistance. Fuller also forfeited six parcels of property.

Fuller now complains that he was subjected to double jeopardy by having been sentenced in the criminal proceeding and having his property forfeited in the forfeiture proceeding. Fuller additionally complains that he received ineffective assistance of counsel in that his counsel was not licensed to practice in Oklahoma, had a conflict of interest, and failed to conduct pretrial discovery. Moreover, Fuller asserts in his "Traverse" to Government's Response that, but for his ineffective assistance of counsel, he would have perfected an appeal on double jeopardy grounds. Lastly, Fuller attempts to supplement his §2255 motion, arguing that his counsel was ineffective for failing to file a Motion to Dismiss the Information because it does not name any co-conspirators, and Fuller "cannot conspire with himself"

Because Fuller uses his allegations of ineffective assistance of counsel as explanations to the government's argument that he is barred from raising double jeopardy, or that, by the terms of the plea agreement, he waived double jeopardy, the court will address the issue of the effectiveness of counsel first. The ineffective assistance of counsel claims must be viewed under the Strickland test: 1) whether defendant's attorney's performance was not reasonably effective and 2) whether defendant's defense was prejudiced thereby. Strickland v. Washington, 466 U.S. 668, 693, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Further, the Court must presume that counsel's performance was reasonably effective, "the burden rests on the accused to demonstrate a constitutional violation." U.S. v. Cronin, 104 S.Ct. 2039, 2046 (1984). Under the Strickland rule the presumption of effective representation is a strong one. Indeed, "[j]udicial scrutiny of counsel's performance must be highly deferential."

Strickland, 104 S.Ct. at 2065. The Court must “presume that the challenged action might be considered sound trial strategy.” Hatch v. State of Oklahoma, 58 F.3rd 1447, 1459 (10th Cir. 1995). Moreover, the two part Strickland test applies to ineffective assistance of counsel arguments involving guilty pleas. Hill v. Lockhart, 474 U.S. 52 (1985). In the instance of a guilty plea, the prejudice requirement is satisfied if the defendant shows “that there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” Hill, 474 U.S. at 59.

With respect to the assertions that counsel was ineffective because he was not licensed to practice law in Oklahoma and because he failed to conduct pretrial discovery, Fuller simply does not make any showing of prejudice. There is nothing in the record to support the conclusion that but for his counsel’s licensure, he would not have pled guilty as is required by Hill. The prejudice prong of Strickland also requires that, for Fuller’s failure to conduct pretrial discovery claim, he show a likelihood that evidence would have been discovered which would have led counsel to change his recommendation as to the plea. Hill, 474 U.S. at 59. Fuller does not provide any information on what evidence might have been discovered if pretrial discovery had taken place, and completely fails to demonstrate that such evidence would have led his counsel to change his recommendation as to the plea.

Fuller also asserts that his guilty plea was not voluntary because of counsel’s remarks that if he did not plead guilty as well as forfeit all his real property he would be found guilty and receive “100’s of years” of incarceration. While it is a disputed fact whether counsel made these threats to Fuller, it is inescapable that the statements were not prejudicial. Fuller was provided the information both in the Plea Agreement and at the change of plea that the maximum sentence he would receive

was thirty-five years. Moreover, he made the affirmative statement that he understood this to be the case.

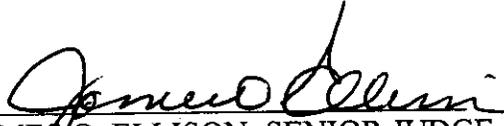
Fuller's remaining claim on ineffective assistance of counsel centers around an alleged conflict of interest when his counsel represented his mother and aunt (who apparently provided information on Fuller's whereabouts) before the grand jury and subsequently represented Fuller when he was apprehended and charged. In order to prevail on this claim, Fuller must demonstrate that an actual conflict of interest adversely affected his lawyer's performance. Cuyler v. Sullivan, 446 U.S. 335, 348 (1980). If an actual conflict is demonstrated, Fuller, however, need not show prejudice in order to obtain relief. Id. at 349-50. Movant meets his burden here if he shows that "a specific and seemingly valid or genuine alternative strategy was available to defense counsel, but it was inherently in conflict with his duties to others or to his own personal interests." United States v. Migliaccio, 34 F.3d 1517 (10th Cir. 1994)(quoting United States v. Bowie, 892 F. 2d 1494, 1500 (10th Cir. 1990)). From this test, the Court finds that an actual conflict did not exist in this situation. Fleeing or hiding from federal authorities is not a "seemingly valid or genuine alternative strategy" which would give rise to a conflict of interest.

Finding that there is no basis for Fuller's ineffective assistance of counsel claims, the Court now turns to Fuller's double jeopardy argument. Fuller contends that his forfeiture of property, by a Judgment of Forfeiture, followed by his imprisonment, violates the double jeopardy clause. The government argues that Fuller waived any double jeopardy argument by virtue of the plea agreement wherein he agreed both to plead guilty to criminal charges and to forfeit certain real property. Moreover, it is quite clear that, at least in this circuit, double jeopardy rights may be waived by agreement, even where double jeopardy is not specifically referred to by name in the plea agreement.

United States v. Cordoba, 71 F.3d 1543 (10th Cir. 1995). The Court finds that Fuller waived his double jeopardy rights when he entered into the plea agreement. Additionally, waiver similarly defeats Fuller's claim regarding unnamed co-conspirators. Id.

Fuller's Motion to Set Aside Judgment Pursuant to 28 U.S.C. §2255 (docket #28), Motion to Vacate, Set Aside and Correct Illegal Sentence pursuant to 28 U.S.C. §2255 (docket #27), and Application for Leave to Supplement Additional Facts to 28 U.S.C. §2255 Motion Currently Before the Court (docket #32) are denied. The Court notes that Fuller's Motion for Discovery (docket #29) has been responded to by the government with the information sought by Fuller, and is, therefore, moot.

IT IS SO ORDERED THIS 5<sup>th</sup> DAY OF MARCH, 1996.

  
JAMES O. ELLISON, SENIOR JUDGE  
UNITED STATES DISTRICT COURT

*Entered on Docket 3-6-96*

**UNITED STATES DISTRICT COURT  
Northern District of Oklahoma**

UNITED STATES OF AMERICA

v.

Case Number 95-CR-077-002-K

MARQUITA LATICE HANKINS  
Defendant.

**FILED**

MAR 06 1996

**JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed On or After November 1, 1987)

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

The defendant, MARQUITA LATICE HANKINS, was represented by William E. Hughes.

The defendant was found guilty on count(s) 1,2,3,5,7, and 8 of the Indictment on October 5, 1995 after a plea of not guilty. On February 5, 1996, convictions in Counts 2,3,5, and 7 were vacated by order of the Court. Accordingly, the defendant is adjudged guilty of count(s) 1 and 8, involving the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
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 844(a) and 18:2	Possession of Cocaine Base and Aiding and Abetting	03/10/95	8

As pronounced on February 27, 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 \$ 75.00, for count(s) 1 and 8 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 5<sup>th</sup> day of March, 1996.

  
The Honorable Terry C. Kern  
United States District Judge

Defendant's SSN: 440-74-1897

Defendant's Date of Birth: 11/25/69

Defendant's residence and mailing address: 2508 North Rockford, Tulsa, OK 74106

Defendant: MARQUITA LATICE HANKINS  
Case Number: 95-CR-077-002-K

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 120 months on Count 1, and 24 months on Count 8, both counts concurrent, each with the other.

The Court makes the following recommendations to the Bureau of Prisons: That the defendant be incarcerated at a facility near Dallas, Texas.

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: MARQUITA LATICHE HANKINS  
Case Number: 95-CR-077-002-K

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years as to Count 1, and 1 year as to Count 8, said terms 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: MARQUITA LATICE HANKINS  
Case Number: 95-CR-077-002-K

Judgment--Page 4 of 5

**FINE**

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 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.

This amount is the total of the fines imposed on individual counts, as follows: \$2,500.00 on Count 1 and \$2,500.00 on Count 8.

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.

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: MARQUITA LATICE HANKINS  
Case Number: 95-CR-077-002-K

**STATEMENT OF REASONS**

The court adopts the factual findings and guideline application in the presentence report except: The Court finds that the defendant is entitled to a two point reduction for minor participant pursuant to USSG § 3B1.2(b)..

**Guideline Range Determined by the Court:**

Total Offense Level:	30
Criminal History Category:	II
Imprisonment Range:	120 months to 135 months - Ct. 1 15 days to 24 months - Ct. 8
Supervised Release Range:	4 to 5 years - Ct. 1 1 year - Ct. 8
Fine Range:	\$ 15,000 to \$ 4,000,000 - Cts. 1 & 8
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.

MAR 6 1996

**UNITED STATES DISTRICT COURT  
Northern District of Oklahoma**

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

UNITED STATES OF AMERICA

v.

Case Number 90-CR-047-001-E

ENTERED ON DOCKET

**RODERICK KENNETH HOWARD**  
Defendant.

DATE 3/6/96

**AMENDED (Pursuant to 18 U.S.C. § 3582(c)(2))  
JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)**

The defendant, **RODERICK KENNETH HOWARD**, was represented by Steven Knorr.

The defendant was found guilty on count(s) 1 and 2 of the Indictment on June 21, 1990 after a plea of not guilty. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 USC 846; 841(a)(1)	Conspiracy to Possess With Intent to Distribute 50 Grams or More of Cocaine Base	03/23/90	1
21 USC 841(a)(1), and 18:2	Possession With Intent to Distribute 50 Grams or More of Cocaine Base, and Aiding & Abetting	03/23/90	2

As pronounced on March 1, 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 \$ 100.00, for count(s) 1 and 2 of the Indictment, which shall be due immediately.

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

Signed this the 5<sup>th</sup> day of March, 1996.

  
The Honorable James O. Ellison  
United States District Judge

Defendant's SSN: 448-68-0331  
Defendant's Date of Birth: 09/18/61  
Defendant's mailing address: 515 E. Oklahoma St., Tulsa, OK 74106  
Defendant's residence address: C/O 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 B.M. Culberson  
Deputy

Defendant: RODERICK KENNETH HOWARD

Case Number: 90-CR-047-001-E

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 292 months as to each of Counts 1 and 2, 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 designate the place of confinement at FCI, El Reno, OK; and that the defendant be afforded comprehensive drug treatment as described in 18 USC § 3621(e).

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: RODERICK KENNETH HOWARD

Case Number: 90-CR-047-001-E

### SUPERVISED RELEASE

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

### 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: RODERICK KENNETH HOWARD

Case Number: 90-CR-047-001-E

**STATEMENT OF REASONS**

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

**Guideline Range Determined by the Court:**

Total Offense Level:	40
Criminal History Category:	I
Imprisonment Range:	292 months to 365 months - Cts. 1 & 2
Supervised Release Range:	5 years - Cts. 1 & 2
Fine Range:	\$ 25,000 to \$ 4,000,000 - Cts. 1 & 2
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 reason(s): A sentence at the minimum of the range is imposed because this defendant is a first time narcotics offender, all factors have been adequately considered under the guidelines application, and a minimum sentence adequately meets all sentencing objectives.

PA