

UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

DEC 30 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

94-CR-076-C )

FRANKIE JOE MCADAMS )

Defendant. )

ENTERED ON DOCKET

DATE DEC 31 1996

ORDER

The Court, having reviewed the Motion to Transfer Funds of the United States, hereby finds that good cause exists to grant the United States' Motion.

IT IS THEREFORE ORDERED that the monies deposited by the Court Clerk's Office into the Crime Victims Fund (Acct. No. 504100) and credited to payment of fine for the above Defendant, be transferred to the deposit fund of the Court Clerk and a check issued to the United States Department of Justice in the amount of \$260.00.

  
UNITED STATES DISTRICT JUDGE

LFR:jmo

Receipt 74561  
12/6/96 \$260

✓ M

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

**FILED**

DEC 30 1996



Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
JON DAVID ASTACIO, )  
Defendant. )

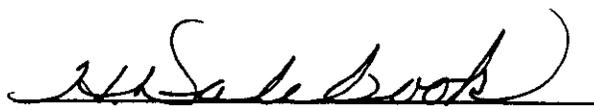
Case No. 95-CR-55-002-C ✓

ORDER

ENTERED ON DOCKET  
DEC 31 1996  
D.W.E.

NOW on this 27<sup>th</sup> day of December, 1996, the Court having considered the Motion to Refund Monies Collected of the United States and having received additional information from the Clerk of the United States District Court that \$300.00 was collected, hereby finds that good cause exists to grant the United States' Motion.

IT IS THEREFORE ORDERED that the \$300.00 deposited by the Court Clerk's Office into the Crime Victim Fund (Account 504100) for the above Defendant, be refunded to the Defendant and a check be issued to Jon David Astacio, 2885 W. 12th Street, Brooklyn, NY 11221.

  
Honorable H. Dale Cook  
Senior, United States District Judge

\$300.00  
504100  
(6)

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

UNITED STATES OF AMERICA

1231-96

v.

Case Number 96-CR-061-001-K

RAYMOND GAITHER  
Defendant.

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

**FILED**  
DEC 30 1996  
Phil Lombardi, Clerk  
U.S. DISTRICT COURT

The defendant, RAYMOND GAITHER, was represented by Stephen Knorr.

The defendant pleaded guilty to count(s) 1. 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>
42 USC 408 (a)(7)(B)	Use of False Social Security Number	11-8-96	1

As pronounced on December 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) 1, which shall be due immediately.

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

Signed this the 24 day of December, 1996.

  
Terry C. Kern, Chief  
United States District Judge

Defendant's SSN: 229-58-1383  
Defendant's Date of Birth: 5/5/46  
Defendant's residence and mailing address: Tulsa County Jail, Tulsa, Oklahoma

//

Defendant: RAYMOND GAITHER  
Case Number: 96-CR-061-001-K

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 12 months.

The Court makes the following recommendations to the Bureau of Prisons: The defendant is to be placed in a residential substance abuse program if possible, without undue delay in placement.

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: RAYMOND GAITHER

Case Number: 96-CR-061-001-K

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years. While on supervised release, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; shall comply with the standard conditions that have been adopted by this court (set forth below); and shall comply with the following additional conditions:

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.
5. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.

The defendant is prohibited from engaging in any form of employment which would give you access to bank accounts, securities, or other negotiable assets of any individual, business, or other entity. All employment shall be approved in advance by the U.S. Probation Officer. Further, you shall advise any and all employers of previous criminal convictions.

**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: RAYMOND GAITHER  
Case Number: 96-CR-061-001-K

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$4,666.

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>
State Bank and Trust 502 S. Main Mall Tulsa, Oklahoma 74103	\$4,257
First Union National Bank POB 13765 Roanoke, Virginia 24037	\$409

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, as directed by the U. S. Probation Office.

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

Defendant: RAYMOND GAITHER  
Case Number: 96-CR-061-001-K

**STATEMENT OF REASONS**

The court adopts the factual findings and guideline application in the presentence report, except that the GTE, Woodland Oaks, and Morrison and Clark offenses do not constitute relevant conduct, and therefore the loss should be reduced to \$4,666.

**Guideline Range Determined by the Court:**

Total Offense Level:	9
Criminal History Category:	III
Imprisonment Range:	8 months to 14 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 1,000 to \$ 10,000
Restitution:	\$ 4,666

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

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

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

UNITED STATES OF AMERICA

12-31-96

v.

Case Number 96-CR-025-005-K ✓

MITCHELL GEORGE  
Defendant.

**FILED**

DEC 30 1996 ✓

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

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

The defendant, MITCHELL GEORGE, was represented by Charles Whitman.

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

The defendant pleaded guilty to count(s) 1 of the Indictment on September 12, 1996. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

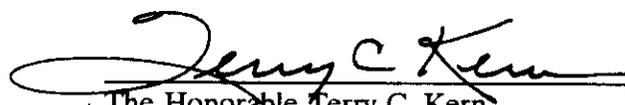
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 USC 846, 841(a)(1), and 841(b)(1)(A)	Conspiracy to Possess With Intent to Distribute Methamphetamine and Cocaine	02/95	1

As pronounced on December 13, 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 23 day of December, 1996.

  
The Honorable Terry C. Kern  
Chief United States District Judge

Defendant's SSN: 441-88-5612  
Defendant's Date of Birth: 07/31/70  
Defendant's residence and mailing address: 64C HR Box 1258, Locust Grove, Oklahoma 74352

Defendant: MITCHELL GEORGE  
Case Number: 96-CR-025-005-K

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 75 months. The Court notes for the record that the sentence of 84 months accounts for the total appropriate punishment, to include consideration of the defendant's assistance to the Government. The Court adjusts this term in application of § 5G1.3(b) to provide credit for the approximate 9 months already served in Wagoner County cases CF-96-100 and 174, that will not be credited toward this sentence. This accounts for the 75 month term imposed. This sentence is ordered to run concurrent with Wagoner County cases CF-96-100, and 174.

The Court makes the following recommendations to the Bureau of Prisons: The defendant be designated to the Oklahoma Department of Corrections, thereby making this sentence concurrent with defendant's imprisonment pursuant to the Judgment in District Court of Wagoner County, Oklahoma; the defendant be incarcerated at a facility specializing in drug treatment.

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: MITCHELL GEORGE  
Case Number: 96-CR-025-005-K

### SUPERVISED RELEASE

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

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

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

### STANDARD CONDITIONS OF SUPERVISION

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

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

Defendant: MITCHELL GEORGE  
Case Number: 96-CR-025-005-K

**FINE**

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

The defendant shall pay a fine of \$ 7,500.00. 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: MITCHELL GEORGE  
Case Number: 96-CR-025-005-K

**STATEMENT OF REASONS**

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

**Guideline Range Determined by the Court:**

Total Offense Level:	35
Criminal History Category:	I
Imprisonment Range:	168 months to 210 months - Ct. 1
Supervised Release Range:	3 to 5 years - Ct. 1
Fine Range:	\$ 25,000 to \$ 4,000,000 - Ct. 1
Restitution:	N/A

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

The sentence 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

12-31-96

UNITED STATES OF AMERICA

v.

Case Number 96-CR-102-001-K ✓

CHRISTINE VIRGINIA NELSON  
Defendant.

**FILED**

DEC 30 1996

cr

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

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

The defendant, CHRISTINE VIRGINIA NELSON, was represented by Craig Bryant.

The defendant pleaded guilty to count(s) 1 of the Information on September 13, 1996. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

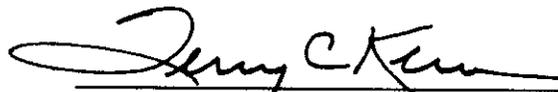
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
42 USC 408 (a)(7)(B)	Use of False Social Security Number	08/23/95	1

As pronounced on December 12, 1996, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50.00, for count(s) 1 of the 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 23 day of December, 1996.



The Honorable Terry C. Kern  
Chief United States District Judge

Defendant's SSN: 335-62-8578  
Defendant's Date of Birth: 12/12/61  
Defendant's residence and mailing address: 2816 N. Boulder, Tulsa, OK 74106

Defendant: CHRISTINE VIRGINIA NELSON  
Case Number: 96-CR-102-001-K

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 6 months.

The Court makes the following recommendations to the Bureau of Prisons: That the Bureau of Prisons designate the Freedom Ranch Halfway House as the place of confinement.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 12:00 p.m. on January 17, 1997.

**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: CHRISTINE VIRGINIA NELSON  
Case Number: 96-CR-102-001-K

### SUPERVISED RELEASE

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

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

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 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.
6. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

### STANDARD CONDITIONS OF SUPERVISION

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

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

Defendant: CHRISTINE VIRGINIA NELSON  
Case Number: 96-CR-102-001-K

**STATEMENT OF REASONS**

The court adopts the factual findings and guideline application in the presentence report except: The Court granted a 2 level reduction in the offense level for acceptance of responsibility under § 3E1.1.

**Guideline Range Determined by the Court:**

Total Offense Level:	11
Criminal History Category:	I
Imprisonment Range:	8 months to 14 months - Ct. 1
Supervised Release Range:	2 to 3 years - Ct. 1
Fine Range:	\$ 2,000 to \$ 20,000 - Ct. 1
Restitution:	\$ 229.16

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): The defendant previously entered into a payment agreement with Tulsa County District Attorney's Office for amount that included this loss.

The sentence departs from the guideline range for the following reason(s): The defendant previously entered into a payment agreement with Tulsa County District Attorney's Office for amount that included this loss.

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

**FILED**

DEC 30 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 96-CR-120-001-B

KENDRA J. SEFCIK  
Defendant.

ENTERED ON DOCKET  
DATE DEC 30 1996

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

The defendant, KENDRA J. SEFCIK, was represented by Stephen Greubel.

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

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

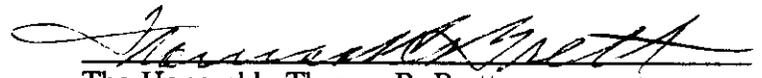
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 2113(B)	Theft of Bank Funds	06/10/93	1

As pronounced on December 20, 1996, the defendant is sentenced as provided in pages 2 through 4 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

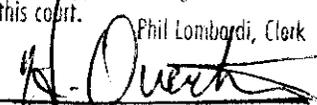
It is ordered that the defendant shall pay to the United States a special assessment of \$ 50.00, for count(s) 1 of the Amended Information, which shall be due immediately.

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

Signed this the 30<sup>th</sup> day of December, 1996.

  
The Honorable Thomas R. Brett  
Senior United States District Judge

Defendant's SSN: 442-88-8191  
Defendant's Date of Birth: 03/02/71  
Defendant's residence and mailing address: 19902 S. 129th East Ave., Bixby, OK 74003

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: KENDRA J. SEFCIK

Case Number: 96-CR-120-001-B

### PROBATION

The defendant is hereby placed on probation for a term of 4 year(s).

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

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

### STANDARD CONDITIONS OF PROBATION

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

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

Defendant: KENDRA J. SEFCIK  
Case Number: 96-CR-120-001-B

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$6,680.00 on Count 1.

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, Sr. Vice President and Director of Internal Audit One Williams Center Tulsa, Oklahoma 74103	\$6,680.00

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 during the period of probation in regular installment payments.

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

Defendant: KENDRA J. SEFCIK  
Case Number: 96-CR-120-001-B

**STATEMENT OF REASONS**

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

**Guideline Range Determined by the Court:**

Total Offense Level:	8
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months - Ct. 1
Supervised Release Range:	2 to 3 years - Ct. 1
Fine Range:	\$ 1,000 to \$ 10,000 - Ct. 1
Restitution:	\$ 6,680.00

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**

DEC 23 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
LARRY LEAVERN COLE, )  
)  
Defendant. )

No. 95-CR-57-C ✓

RECORDED ON BOOK 17

DATE DEC 24 1996

**ORDER**

Currently pending before the Court is the motion filed by defendant, Larry Cole, seeking to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255.

On July 25, 1995, Cole pled guilty to Count One, Conspiracy to Possess Cocaine with Intent to Distribute, in violation of 21 U.S.C. §§ 846 and 841(a)(1). On October 18, 1995, Cole was sentenced to sixty months imprisonment on Count One. Cole failed to file a direct appeal.

Cole seeks to correct his sentence by maintaining that the government breached its agreement with Cole by failing to file a sentence reduction motion pursuant to § 5K1.1 of the Sentencing Guidelines. Specifically, Cole asserts that, in exchange for Cole's plea of guilty and Cole's cooperation, the government promised to seek a downward departure pursuant to Sentencing Guideline § 5K1.1. The government did not submit a substantial assistance motion pursuant to § 5K1.1 at sentencing. Cole maintains that the government's failure to submit the § 5K1.1 motion violated the plea agreement. Hence, Cole asks this Court to order the U.S. Attorney to enter the § 5K1.1 motion and to reduce his sentence to thirty-six months, in accord with the government's promise.

26

Cole's plea agreement provides, "Should your client choose to cooperate with law enforcement in an effort to obtain a downward departure pursuant to U.S.S.G. § 5K1.1, the government will advise the court of the nature and extent of his cooperation at sentencing and should any such cooperation warrant, within the government's discretion a § 5K1.1 motion may be filed." Cole asserts that he upheld his part of the bargain by providing government agents with all the information he possessed concerning criminal activity. The government maintains, however, that Cole did not provide substantial assistance to the government which would warrant a § 5K1.1 motion. The government represents that Cole's counsel admitted, at sentencing, that Cole did not qualify for the § 5K1.1 motion because Cole did not know enough to be of assistance to the government. Hence, the government argues that its refusal to file a § 5K1.1 motion was neither violative of an agreement with Cole nor based on an unconstitutional motive. The Court agrees.

It is beyond dispute that the bringing of a § 5K1.1 motion is wholly within the discretion of the government. Even if this were not the case, the plea agreement unequivocally reserves to the government the discretion as to whether a § 5K1.1 motion would be submitted. The agreement specifically states that "should any cooperation warrant, within the government's discretion a § 5K1.1 motion may be filed." Clearly, the government made no promise to submit a § 5K1.1 motion. The government merely promised that it would consider submitting such a motion if cooperation warranted. The government asserts that Cole did not provide substantial assistance and, therefore, his cooperation did not warrant a § 5K1.1 motion. The Court will not re-write the plea agreement to give effect to a promise which was not actually made. Further, the Court will not force the government to submit a § 5K1.1 motion, when such is entirely discretionary with the government.

Since it is apparent from the record that Cole's plea agreement was honored, the Court finds that there is no basis for disturbing Cole's sentence and judgment in this case.

Accordingly, Cole's motion to correct sentence is hereby DENIED.

IT IS SO ORDERED this 19<sup>th</sup> day of December, 1996.

  
H. DALE COOK  
U.S. District Judge

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 QUILLER WINFRED DOBBINS, aka )  
 "Quiller", )  
 )  
 Defendant. )

No. 96-CR-145-BU ✓

**FILED**

DEC 20 1996

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

ENTERED ON DOCKET

DATE 12-24-96

ORDER

Now on this 20<sup>th</sup> day of December, 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 Quiller Winfred Dobbins in the above styled cause. The Court finds that said request ought to be granted and the Indictment against defendant Quiller Winfred Dobbins is dismissed, without prejudice.

IT IS SO ORDERED.

  
MICHAEL BURRAGE  
United States District Judge

UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

**FILE**

DEC 23 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA )  
Plaintiff )  
 )  
vs. )  
 )  
GERALD A. SNIDER )  
Defendant )

Case No. 95-CR-101-001-C ✓

ENTERED ON DOCKET

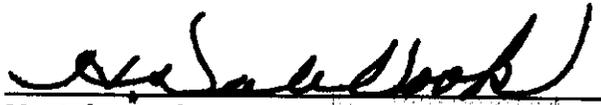
DATE 12/24/96

**ORDER  
NUNC PRO TUNC**

On May 14, 1996, the defendant appeared for sentencing at which time the court committed the defendant to the custody of the U.S. Bureau of Prisons for 12 months and 1 day. Further, the Court imposed a term of supervised release, and restitution in the amount of \$190,000. The Court is now advised that, due to clerical error, the amount of restitution ordered was incorrect, and that the correct restitution figure is \$119,532. The attorney for the Government has no objection to this revised restitution amount.

Accordingly, the Court modifies only the restitution portion of the sentence, Nunc Pro Tunc, and orders that the defendant pay restitution in the amount of \$119,532.

It is so ordered this 19<sup>th</sup> day of December, 1996.



H. Dale Cook  
United States District Judge

By Phil Lombardi, Clerk  
U.S. DISTRICT COURT

By Beverly P. Lindbergh  
Clerk

**FILED**

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

**DEC 23 1996**

**Phil Lombardi, Clerk  
U.S. DISTRICT COURT**

UNITED STATES OF AMERICA

v.

Case Number 95-CR-101-001-C

ENTERED ON DOCKET

GERALD A. SNIDER  
Defendant.

DATE 12/24/96

**AMENDED JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)  
(Correction of Sentence for Clerical Error, (Fed. R. Crim. P. 36))**

The defendant, GERALD A. SNIDER, was represented by Roger Hilfiger.

The defendant was found guilty on count(s) 1 of the Indictment on December 1, 1995 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>
18 USC 371	Conspiracy to Commit Medicare Fraud	09/27/92	1

As pronounced on May 14, 1996, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 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 23 day of Dec, 1996.

  
The Honorable H. Dale Cook  
United States District Judge

Defendant's SSN: 444-42-9855  
Defendant's Date of Birth: 09/22/43  
Defendant's residence and mailing address: 3505 Porter Ave., Muskogee, OK 74403

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 Ben P. McLaughlin  
Deputy

Defendant: GERALD A. SNIDER  
Case Number: 95-CR-101-001-C

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 12 months and 1 day.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 9:00 a.m. on July 22, 1996.

**RETURN**

I have executed this Judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
United States Marshal  
By \_\_\_\_\_  
Deputy Marshal

Defendant: GERALD A. SNIDER  
Case Number: 95-CR-101-001-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 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: GERALD A. SNIDER  
Case Number: 95-CR-101-001-C

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$119,532.00. Defendant James O. Moore, in related case 94-CR-037-001-B, was ordered to pay the remainder of the total amount of restitution ordered.

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>
DHHS/HFCA, Division of Accounting P.O. Box 17255 Baltimore, MD 21203-7255	\$119,532.00

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: GERALD A. SNIDER  
Case Number: 95-CR-101-001-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:	13
Criminal History Category:	I
Imprisonment Range:	12 months to 18 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 3,000 to \$ 483,904
Restitution:	\$ 119,532.00

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.

19

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

**FILED**

DEC 23 1996

UNITED STATES OF AMERICA

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

v.

Case Number 96-CR-097-001-C

ENTERED ON DOCKET

DATE 12/24/96

WILLIAM DAVID DEES  
Defendant.

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

The defendant, WILLIAM DAVID DEES, was represented by Gerald L. Hofmeister.

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

The defendant pleaded guilty to count(s) 1 of the Superseding Indictment on September 25, 1996. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

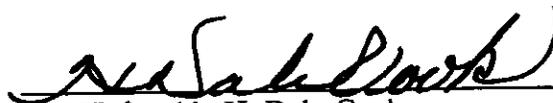
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 1005	False Entry on Bank Records	01/24/96	1

As pronounced on December 11, 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 Superseding Indictment, which shall be due immediately.

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

Signed this the 19<sup>th</sup> day of December, 1996.

  
The Honorable H. Dale Cook  
United States District Judge

Defendant's SSN: 267-31-3813

Defendant's Date of Birth: 08/02/58

Defendant's residence and mailing address: 3328 S. 76th West Ave., Tulsa, Oklahoma 74107

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 Blair M. Cullough  
Deputy

Defendant: WILLIAM DAVID DEES  
Case Number: 96-CR-097-001-C

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of one (1) month.

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 Center or comparable facility as the place of service for this one month term.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 9:00 a.m. on January 11, 1997.

**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: WILLIAM DAVID DEES  
Case Number: 96-CR-097-001-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 be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 3 months, to commence within 72 hours of 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 Court suspends the requirements for mandatory urine screening as dictated by 18 U.S.C. § 3608, but specifically retains the probation officer's authority to administer such tests for cause as permitted by the standard conditions of supervision.

### 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: WILLIAM DAVID DEES  
Case Number: 96-CR-097-001-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 \$ 1,000.00. 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: WILLIAM DAVID DEES  
Case Number: 96-CR-097-001-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:	11
Criminal History Category:	I
Imprisonment Range:	8 months to 14 months - Ct. 1
Supervised Release Range:	3 to 5 years - Ct. 1
Fine Range:	\$ 2,000 to \$ 1,000,000 - Ct. 1
Restitution:	N/A

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

The sentence departs from the guideline range for the following reasons: The Court sustained the defendant's Sentencing Memorandum and Request for a downward departure, granting a two point reduction in the offense level from level 11 to a level nine, based on both the defendant's extraordinary assistance to the government and his extraordinary actions to right the wrong.

**FILED**

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

**DEC 23 1996**

**Phil Lombardi, Clerk  
U.S. DISTRICT COURT**

UNITED STATES OF AMERICA

v.

Case Number 92-CR-048-001-C

**BILLY WAYNE JACKSON aka KEEWAYNE**  
Defendant.

ENTERED ON DOCKET

DATE 12-24-96

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

The defendant, **BILLY WAYNE JACKSON aka KEEWAYNE**, was represented by Howard Dean Owens.

On motion of the United States the court has dismissed count(s) 3 and 5 of the Superseding Indictment.

The defendant pleaded guilty to count(s) 1, 2, and 4 of the Superseding Indictment on September 17, 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>
18 USC 1951	Robbery Affecting Interstate Commerce	11/15/91	1
18 USC 924(c)(1)	Possession of a Firearm During a Crime of Violence	11/15/91	2
18 USC 922(g)(1) and 924(a)(2)	Possession of a Firearm After Former Conviction of a Felony	04/05/92	4

As pronounced on December 11, 1996, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 150.00, for count(s) 1, 2, and 4 of the Superseding Indictment, which shall be due immediately.

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

Signed this the 23 day of Dec, 1996.

  
The Honorable H. Dale Cook  
United States District Judge

Defendant's SSN: 562-41-3457  
Defendant's Date of Birth: 12/14/61  
Defendant's mailing address: 4050 Ursula, Los Angeles, CA 90008  
Defendant's residence address: C/O Tulsa County Jail, 500 S. Denver, Tulsa, OK 74103

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: BILLY WAYNE JACKSON aka KEEWAYNE  
Case Number: 92-CR-048-001-C

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 156 months, consisting of 96 months each on Counts 1 and 4, with each count to run concurrently to the other, and a term of 60 months in Count 2, to run consecutively to the term of imprisonment imposed in Counts 1 and 4. The term of imprisonment imposed by this judgment shall run consecutively to the defendant's unexpired term of imprisonment imposed in Los Angeles County, California Superior Court, Case No. YA026739.

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 provide comprehensive substance abuse treatment 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: BILLY WAYNE JACKSON aka KEEWAYNE  
Case Number: 92-CR-048-001-C

### SUPERVISED RELEASE

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

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

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.
6. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.

### STANDARD CONDITIONS OF SUPERVISION

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

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

Defendant: BILLY WAYNE JACKSON aka KEEWAYNE  
Case Number: 92-CR-048-001-C

**FINE**

The defendant shall pay a fine of \$ 3,000.00 as to Count 4. 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: BILLY WAYNE JACKSON aka KEEWAYNE  
Case Number: 92-CR-048-001-C

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$365.75 as to Count 1.

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>
Pier 1 Imports 5255 S. Sheridan Tulsa, OK 74148	\$365.75

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: BILLY WAYNE JACKSON aka KEEWAYNE  
Case Number: 92-CR-048-001-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:	26
Criminal History Category:	III
Imprisonment Range:	78 months to 97 months - Cts. 1 & 4 60 years - Ct. 2 consecutive
Supervised Release Range:	2 to 3 years - Cts. 1, 2, and 4
Fine Range:	\$12,500 to \$125,000 - Cts. 1, 2, & 4
Restitution:	\$ 365.75

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

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

**FILED**

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

DEC 23 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 96-CR-112-001-C

WILLARD FAYE BARNETT, JR.  
Defendant.

ENTERED ON DOCKET  
DATE 12-24-96

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

The defendant, WILLARD FAYE BARNETT, JR., was represented by Craig Bryant.

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

The defendant pleaded guilty to count(s) 2 of the Indictment on September 25, 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>
18 USC 1014 & 2	False Statement to a Financial Institution and Causing a Criminal Act	06/20/92	2

As pronounced on December 11, 1996, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

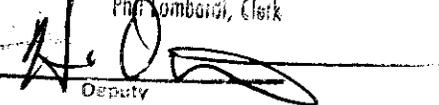
It is ordered that the defendant shall pay to the United States a special assessment of \$ 50.00, for count(s) 2 of the Indictment, which shall be due immediately.

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 19 day of Dec, 1996.

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

  
The Honorable H. Dale Cook  
United States District Judge

By   
Deputy

Defendant's SSN: 432-04-2858

Defendant's Date of Birth: 04/24/54

Defendant's residence and mailing address: 16929 Valley Crest, Edmond, Oklahoma 73003

Defendant: WILLARD FAYE BARNETT, JR.  
Case Number: 96-CR-112-001-C

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 4 months.

The Court makes the following recommendations to the Bureau of Prisons: That the Bureau of Prisons designate a halfway house as the place of confinement for this sentence.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 9:00 a.m. on January 13, 1997.

**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: WILLARD FAYE BARNETT, JR.  
Case Number: 96-CR-112-001-C

### SUPERVISED RELEASE

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

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

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall 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: WILLARD FAYE BARNETT, JR.  
Case Number: 96-CR-112-001-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 \$ 1,000.00. 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: WILLARD FAYE BARNETT, JR.  
Case Number: 96-CR-112-001-C

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$12,432.12 on Count 2.

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>
Boatmen's National Bank (or any subsequent successor in interest) C/O Kevin M. Webb P.O. Box 2360 Tulsa, Oklahoma 74101	\$12,432.12

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 during the term of supervised release.

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

Defendant: WILLARD FAYE BARNETT, JR.  
Case Number: 96-CR-112-001-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:	7
Criminal History Category:	I
Imprisonment Range:	0 months to 6 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 500 to \$ 1,000,000
Restitution:	\$ 12,432.12

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.

*ew*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA )  
Plaintiff )  
VS )  
MICHAEL HARRELL )  
Defendant )

EOD 12/23/96

Case Number: 94-CR-113-001-K

**FILED**

DEC 20 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

ORDER REVOKING SUPERVISED RELEASE

Now on this 13th day of December 1996, this cause comes on for sentencing concerning allegations that the defendant violated conditions of supervised release as set out in the Amended Petition on Supervised Release filed on December 9, 1996. The defendant is present in person and represented by counsel, Stephen Greubel. The Government is represented by Assistant U.S. Attorney Lucy Creekmore, and the United States Probation Office is represented by J. Mark Ogle.

On December 7, 1994, the above-referenced offender was sentenced to five (5) years probation for the charges of Mail Fraud and Causing a Criminal Act in violation of 18 U.S.C. §§ 1341 & 2(b), and Wire Fraud and Causing a Criminal Act in violation of 18 U.S.C. §§ 1343 & 2(b). The standard conditions of probation were imposed with special conditions consisting of four (4) months of electronic monitoring, substance abuse testing and treatment, and the "Special Financial Conditions." Harrell was additionally ordered to pay a \$1,000 fine and \$14,000 in restitution.

On September 14, 1995, the defendant appeared before the Honorable Terry C. Kern for a revocation hearing on the violations listed in the Petition on Probation and Supervised Release, filed July 17, 1995, and stipulated to the violations as memorialized in the Petition. The violations consisted of: 1) failure to provide restitution payments as directed; 2) failure to submit to urinalysis on fourteen (14) separate occasions; 3) failure to provide financial information as instructed; and 4) failure to provide written reports to the Probation Office for the months of March, April, May, and June, 1995. Harrell waived any additional time for sentencing and the Court imposed zero (0) months custody with a two (2) year term of supervised release to include four (4) months of home detention with electronic monitoring. The standard conditions of supervised release were ordered along with the following special conditions: 1) 200 community service hours; 2) restitution of \$14,000; 3) fine of \$1,000; 4) that the defendant successfully participate in a program of testing and treatment for drug and alcohol abuse.

On December 13, 1996, a revocation hearing was held regarding the allegations noted in the Petition on Supervised Release, filed on December 9, 1996. The defendant stipulated to all violations as contained in the amended petition, and sentencing was set for December 13, 1996, at 11:30 a.m.

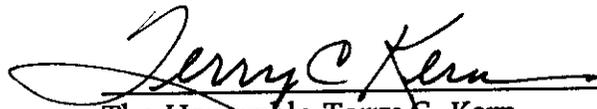
On December 13, 1996, as a result of the sentencing hearing, the Court finds that the defendant violated the terms of his supervised release, and determines that the violations occurred after November 1, 1987, and that Chapter 7 of the U.S. Sentencing Commission

Guidelines is applicable. Further, the Court finds that the violations of supervised release constitute Grade B violations in accordance with USSG § 7B1.1(a)(2), and that the defendants original Criminal History Category of I is now applicable for determining the sentencing range. In addition, the Court finds that a Grade B violation and a Criminal History Category of I establish a revocation imprisonment range of four to ten months, in accordance with USSG §§ 7B1.4(a) and (b)(3), and Title 18, U.S.C. § 3565 (a)(2). In consideration of these findings and pursuant to U.S. vs. Lee, 957 F.2d 770 (Tenth Circuit, 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 sentence is ordered:

It is adjudged by the Court that the defendant shall be sentenced to serve ten (10) months in the custody of the U.S. Bureau of Prisons.

The \$14,000 restitution order and the \$1,000 fine that were imposed at the initial sentencing and reimposed at the prior revocation sentencing are hereby reimposed.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons on or before 2:00 p.m. on January 15, 1997.

  
The Honorable Terry C. Kern  
Chief United States District Judge

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 96-CR-105-001-H ✓

FILED

DEC 19 1996

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

JOHN LOUIS PELLEGRINO  
Defendant.

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

The defendant, JOHN LOUIS PELLEGRINO, was represented by STEPHEN GREUBEL.

The defendant pleaded guilty to count(s) one of the Information on September 4, 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>
18 USC 1344(1)	Bank Fraud	06-04-96	1

As pronounced on December 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 \$ 100, for count(s) One 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 18<sup>TH</sup> day of DECEMBER, 1996.

  
The Honorable Sven Erik Holmes  
United States District Judge

Defendant's SSN: 051-64-2481  
Defendant's Date of Birth: 03-24-73  
Defendant's residence and mailing address: Tulsa County Jail, c/o U.S. Marshal Service

Defendant: JOHN LOUIS PELLEGRINO  
Case Number: 96-CR-105-001-H

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 12 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: JOHN LOUIS PELLEGRINO

Case Number: 96-CR-105-001-H

### SUPERVISED RELEASE

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

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

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall abide by the "Special Financial Conditions" enumerated in Miscellaneous Order Number M-128, filed with the Clerk of the Court on March 18, 1992.
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 successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.

### STANDARD CONDITIONS OF SUPERVISION

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

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

Defendant: JOHN LOUIS PELLEGRINO  
Case Number: 96-CR-105-001-H

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$6,417.06 on Count One of the Information.

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>
Rogers County Bank 300 West Patti Page Blvd Claremore, Oklahoma	\$2,498.42
Walmart Store No. 576 207 South Memorial Tulsa, Oklahoma	\$3,918.64

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma 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: JOHN LOUIS PELLEGRINO  
Case Number: 96-CR-105-001-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:	VI
Imprisonment Range:	18 months to 24 months
Supervised Release Range:	3 to 5 years
Fine Range:	\$ 1,000 to \$ 1,000,000
Restitution:	\$ 6,417.06

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

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

**FILED**  
DEC 11 1996  
Phil Lombardi, Clerk  
U.S. DISTRICT COURT

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 FRANK M. SCHAD, )  
 )  
 Defendant. )

No. 88-CR-2-B ✓

ENTERED ON DOCKET  
DATE DEC 18 1996

**ORDER**

Before the Court is the Motion to Terminate Garnishment filed by the defendant Frank M. Schad ("Schad"). Schad seeks an order terminating Allied Bearing Supply Company's ("Allied Bearing") right to continue garnishment of his wages.

Schad pled guilty to mail fraud and was sentenced on April 6, 1989 to a four year term of imprisonment followed by a four year term of probation. *Judgment (Docket no. 121)*. The Court further order that Schad

make restitution in the amount of \$1,000,000 to Allied Bearing Supply Company, Tulsa, Oklahoma, to be paid at a rate to be determined by the U.S. Probation Office. The first payment is to come from the defendant's forfeiture of his profit share account at Allied Bearing Supply Company in the amount of \$121,696.

*Id.* Schad has since made monthly payments as required by the U.S. Probation Office. Additionally, based on the restitution order, Allied Bearing instituted post-judgment garnishment proceedings under 12 O.S. §1172-96 to collect the restitution amount. An order granting garnishment of Schad's wages was entered on January 23, 1995. (*Docket No. 183*). The garnished amount was in addition to the amount of monthly payments Schad had remitted and continued to remit to the Probation Office.

Schad now urges the Court to terminate Allied Bearing's rights to obtain garnishment in this case because Schad's probation has expired. Allied Bearing objects to Schad's motion, arguing that Schad's restitution obligation does not abate at the end of the probationary period.

The Court disagrees with Allied Bearing's position. Section (f) of 18 U.S.C. §3663 states as follows:

- (1) The court may require that such defendant make restitution under this section within a specified period or in specified installments.
- (2) The end of such period or the last such installment shall not be later than:
  - (A) the end of the period of probation, if probation is ordered;
  - (B) five years after the end of the term of imprisonment imposed, if the court does not order probation; and
  - (C) five years after the date of sentencing in any other case.

As Schad's probation has ended, the restitution order expired pursuant to §3663(f). Therefore, Allied Bearing cannot continue garnishment based on the restitution order in this case. *United States v. Diamond*, 969 F.2d 961, 969 (10th Cir. 1992) ("Although a court may require a defendant to make restitution under the VWPA 'within a specified period or in specified installments,' 18 U.S.C. §3663(f)(1)(1988), the duration of such period or the last such installment 'shall not be later than -- (A) the end of the period of probation, if probation is ordered'").

Accordingly, Schad's motion to terminate garnishment is granted. (*Docket No. 228*).

ORDERED this 11<sup>th</sup> day of December, 1996.



THOMAS R. BRETT, Senior Judge  
UNITED STATES DISTRICT COURT

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

**FILED**

DEC 12 1998

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ALFRED JOHNNY PRINCE, )  
 )  
 Defendant. )

No. 96-CR-145-BU ✓

ENTERED ON DOCKET

DATE: 12-16-96

ORDER

Now on this 12<sup>th</sup> day of December, 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 Alfred Johnny Prince in the above styled cause. The Court finds that said request ought to be granted and the Indictment against defendant Alfred Johnny Prince is dismissed, without prejudice.

IT IS SO ORDERED.

  
MICHAEL BURRAGE  
United States District Judge

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 MELISSA ANN FLICK, )  
 )  
 Defendant. )

No. 96-CR-133-B /

DEC 13 1996

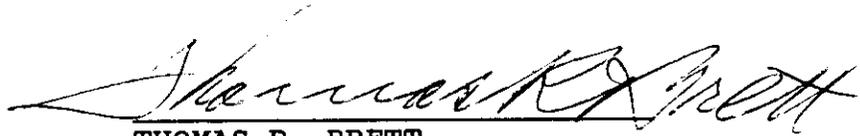
Phil Lombardi, Clerk  
 U.S. DISTRICT COURT

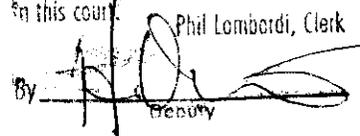
ENTERED ON DOCKET  
 DATE DEC 16 1996

**ORDER FOR DISMISSAL**

Now on this 13<sup>th</sup> day of December, 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 Melissa Ann Flick, in the above styled cause. The Court finds that said request ought to be granted and the Indictment against defendant Melissa Ann Flick, is dismissed, without prejudice.

IT IS SO ORDERED.

  
 THOMAS R. BRETT  
 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  Clerk

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 96-CR-104-001-H

TUYEN X. THAI aka Tuyen Thai  
Defendant.

FILED

DEC 13 1996

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

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

The defendant, TUYEN X. THAI aka Tuyen Thai, was represented by Steve Knorr.

The defendant pleaded guilty to count(s) One of the Information on September 4, 1996. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

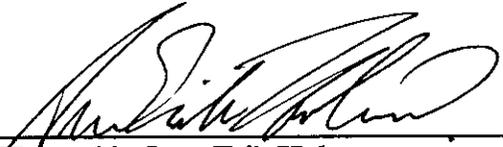
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18:513(a)	Possessing & Uttering of Counterfeit Securities	06-16-95	1

As pronounced on December 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 for Count One 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 12<sup>TH</sup> day of DECEMBER, 1996.

  
The Honorable Sven Erik Holmes  
United States District Judge

Defendant's SSN: 586-40-8183  
Defendant's Date of Birth: 08-23-63  
Defendant's residence and mailing address: 1244 S. Memorial, Apt 1-B, Tulsa, Oklahoma 74112

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Defendant: TUYEN X. THAI aka Tuyen Thai  
Case Number: 96-CR-104-001 H

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of one (1) month

The Court makes the following recommendations to the Bureau of Prisons: That the defendant serve this term in community confinement.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before 3:00 p.m. on January 21, 1997.

**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: TUYEN X. THAI aka Tuyen Thai  
Case Number: 96-CR-104-001-H

### SUPERVISED RELEASE

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

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

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of three (3) months, to commence within 72 hours of release from imprisonment. During this time, the defendant shall remain at place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at place of residence without any special services, modems, answering machines, or cordless telephones for the above period. The defendant shall wear an electronic device and shall observe the rules specified by the Probation Office. The entire cost of this program shall be paid by the defendant.
6. The defendant shall 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.
7. 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: TUYEN X. THAI aka Tuyen Thai  
Case Number: 96-CR-104-001-H

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$18,000.

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>
American National Bank & Trust Company Post Office Box 1408 Sapulpa, Oklahoma 74067	\$18,000

Payments of restitution are to be made to the U.S. Attorney for the Northern District of Oklahoma 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: TUYEN X. THAI aka Tuyen Thai  
Case Number: 96-CR-104-001-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:	9
Criminal History Category:	I
Imprisonment Range:	4 months to 10 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 1,000 to \$ 10,000
Restitution:	\$ 18,200

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

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

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

12/16/96

FILED  
DEC 13 1996  
Phil Lombardi, Clerk  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

UNITED STATES OF AMERICA

v.

Case Number 96-CR-099-001-H

CESAR HUERTA CAMANO  
Defendant.

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

The defendant, CESAR HUERTA CAMANO, was represented by Craig Bryant.

On motion of the United States the court has dismissed count(s) One thru fourteen of the Indictment.

The defendant pleaded guilty to count(s) One of the Information on September 4, 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>
8:1324(a)(1)(A)(ii)	Transporting Illegal ALiens Within United States	6-21-96	1

As pronounced on December 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 \$ 100, for count(s) One 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 12<sup>TH</sup> day of DECEMBER, 1996.

  
The Honorable Sven Erik Holmes  
United States District Judge

Defendant's SSN: 050-76-8428  
Defendant's Date of Birth: 10-18-67  
Defendant's residence and mailing address: 2334 Aloguin Parkway, Chicago, Illinois 60008

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Defendant: CESAR HUERTA CAMANO  
Case Number: 96-CR-099-001-H

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of four (4) months.

The Court makes the following recommendations to the Bureau of Prisons: Released immediately based on credit for time served.

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

**RETURN**

I have executed this Judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
United States Marshal  
By \_\_\_\_\_  
Deputy Marshal

Defendant: CESAR HUERTA CAMANO  
Case Number: 96-CR-099-001-H

### SUPERVISED RELEASE

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

### 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: CESAR HUERTA CAMANO  
Case Number: 96-CR 099-001-H

**FINE**

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

The defendant shall pay a fine of \$ 2,000. 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: CESAR HUERTA CAMANO  
Case Number: 96-CR-099-001-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:	9
Criminal History Category:	I
Imprisonment Range:	4 months to 10 months
Supervised Release Range:	2 to 3 years
Fine Range:	\$ 1,000 to \$ 10,000
Restitution:	\$

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

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

**FILED**

DEC 13 1996

UNITED STATES OF AMERICA

v.

Case Number 96-CR-138-001-B

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

CLEMMIE LEE GEORGE  
Defendant.

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

The defendant, CLEMMIE LEE GEORGE, was represented by Robert Mayes.

The defendant pleaded guilty to count(s) 1 of the Information on December 12, 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>
18 USC 228	Failure to Pay Child Support	09/12/96	1

As pronounced on December 12, 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 \$ 10.00, 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 13<sup>th</sup> day of December, 1996.

The Honorable John L. Wagner  
United States Magistrate Judge

ENTERED ON DOCKET  
DATE 12-13-96

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: 440-50-1345

Defendant's Date of Birth: 04/08/53

Defendant's residence and mailing address: 3410 Tirbracken Lane, Goshen, Kentucky 40026

Defendant: CLEMMIE LEE GEORGE

Case Number: 96-CR-138-001-BU

### PROBATION

The defendant is hereby placed on probation for a term of 5 year(s).

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

1. If this judgment imposes a fine, special assessment, costs or restitution obligation, it shall be a condition of probation that the defendant pay any such fine, assessment, costs and restitution.
2. The defendant shall not own or possess a firearm or destructive device.
3. The defendant shall 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.
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.
5. In addition to the restitution ordered in this case, which represents child payments in arrears, you shall as a condition of probation, remain current with and abide by any court order or judgment relative to child support payments for your dependant child.

### STANDARD CONDITIONS OF PROBATION

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

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

Defendant: CLEMMIE LEE GEORGE  
Case Number: 96-CR-138-001-BU

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$19,582.10.

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>
Department of Human Services P.O. Box 3643, Acct #75430001 - Clemmie George Tulsa, Oklahoma 74101	\$19,582.10

Payments of restitution are to be made to the Clerk of the Court for the Northern District of Oklahoma for transfer to the payee(s).

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation. Restitution may be offset by any amount previously paid and not properly credited upon verification of said payment to the probation officer.

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

Defendant: CLEMMIE LEE GEORGE  
Case Number: 96-CR-138-001-BU

**STATEMENT OF REASONS**

The court finds that it has sufficient information to impose sentence as defined under 18 USC § 3553. Therefore, pursuant to Fed. R. Crim. P. 32(b)(1)(A), no presentence report is ordered in this case.

**Guideline Range Determined by the Court:**

Total Offense Level:	N/A
Criminal History Category:	N/A
Imprisonment Range:	N/A
Supervised Release Range:	N/A
Fine Range:	N/A
Restitution:	\$ 19,582.10

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

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

**F I L E D**

DEC - 9 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
ROBERT DENNIS BUNNER, )  
)  
Defendant. )

No. 94-CR-122-B  
(96-CV-451-B)

ENTERED ON DOCKET  
DATE DEC 10 1996

**ORDER**

Before the Court for consideration is the motion of Plaintiff United States of America ("Government") to reinstate the previously dismissed Indictment filed in case number 94-CR-122-B on September 8, 1994 as to Robert Dennis Bunner. Specifically, the Government seeks reinstatement of Counts One, Three, and Four of said Indictment as a result of this Court's Order of November 12, 1996 granting Defendant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. In said Order the Court granted the Government eleven (11) days to file a motion to reinstate the previously dismissed indictment, should it so choose. In the event the Government did timely file a motion to reinstate the previously dismissed indictment, Defendant was to remain detained. On November 14, 1996, the Government filed the motion at issue here.

Defendant Robert Dennis Bunner ("Defendant") has not filed a response to the Government's motion, and his time to do so has elapsed. After review of the record and applicable legal authorities, the Government's motion is hereby **GRANTED**.

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Conf. Copy to Court  
USM USA  
RCF Pelti

IT IS SO ORDERED THIS 9th day of December, 1996.

A handwritten signature in cursive script, reading "Thomas R. Brett". The signature is written in black ink and is positioned above the printed name and title.

THOMAS R. BRETT, Senior Judge  
UNITED STATES DISTRICT COURT

ENTERED ON DOCKET

DATE 12/10/96

**F I L E D**

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

DEC - 6 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,	)
	)
Plaintiff,	)
	)
vs.	)
	)
RICHARD LEE SMITH,	)
	)
Defendant.	)

Case No. 93-CR-91-B ✓  
96-CV-393-B

**ORDER**

Before the Court is Defendant Richard Lee Smith's ("Smith") Motion to Vacate, Set Aside, or Correct the Sentence this Court imposed following his conviction for possession of a firearm after former conviction of a felony. See 28 U.S.C. § 2255. Smith challenges his sentence by raising four issues; first, the District Court improperly relied on Smith's prior possession of marijuana for sale conviction to enhance his sentence pursuant to 18 U.S.C. § 924 (e)(1); second, the District Court failed to make proper findings of fact based on Smith's objections to the presentence report at the time of sentencing; third, Smith's counsel was ineffective due to his stipulation during trial the firearm in question traveled via interstate commerce; and finally, a *mens rea* element was required to be proven as to the interstate travel of the firearm in question. After reviewing the entire record in this case, the Court has determined that an evidentiary hearing is not necessary and that the motion lacks merit and should be DENIED.

**I. BACKGROUND**

On August 20, 1992, a Tulsa Police Officer stopped Smith for traffic violations. Smith was unable to produce any source of identification or insurance verification. Smith initially informed the

police officer his name was Lee Smith, and subsequently stated it was Richard Smith. Frequent movement of Smith's right hand toward the underneath of the front seat caused the officer to be concerned about the presence of a weapon or contraband in the vehicle. After a backup officer arrived at the scene, Smith was removed from the vehicle and placed under arrest. After determining Smith's vehicle would be towed in, the backup officer conducted an inventory of Smith's vehicle. Under the front seat of Smith's vehicle a loaded Davis, Model P-380, .380 semi-automatic pistol, Serial Number AP187446, was found. Smith was booked in the Tulsa City Jail.

Smith was tried by a jury following an Indictment on June 3, 1993, charging him with possession of a firearm after former conviction of a felony in violation of 18 U.S.C. §§ 922 (g)(1) and 924 (e)(1). On December 9, 1993, the United States of America ("Government") filed a Notice of Eligibility for Sentencing Enhancement to which Smith responded. In the Response, filed February 10, 1994, Smith sought to avoid imposition of an enhanced sentence due to the Government's failure to comply with the requirements of 21 U.S.C. § 851, also stating no allegation was made his marijuana conviction of December 30, 1991 carried a maximum term of imprisonment of ten years or more. The three predicate offenses for enhancement under 18 U.S.C. § 924 (e)(1) were two (2) prior armed robbery convictions not disputed, and the subject possession of marijuana for sale conviction.

Smith was found guilty by the jury on December 20, 1993.

A Presentence Investigation Report was submitted by the United States Probation Office on January 24, 1994. Smith's Objection to the Presentence Investigation Report, also filed February 10, 1994, does not touch any of the issues raised by the instant motion. An addendum to the Presentence Investigation Report was submitted to the Court on February 14, 1994. Within the addendum is the

statement Smith “does not contest the probation office's claim in the presentence report that the defendant's previous drug conviction for Possession of Marijuana for Sale, Los Angeles County, California Superior Court, Case No. BA046297, meets the statutory requirements as a 'serious drug offense.’” Smith was sentenced to an enhanced term of 210 months in custody of the Bureau of Prisons, plus certain monetary fines and assessments.

Smith appealed his conviction to the Tenth Circuit Court of Appeals and was affirmed. The Supreme Court denied *certiorari*.

On May 6, 1996, Smith filed the instant motion to which the Government responded. In his Response to the Government, Smith joins the issues of whether the District Court properly relied on his prior marijuana conviction for purposes of sentence enhancement and whether the District Court made proper findings of fact based on Smith's objections to the presentence report. Smith then expands his argument by touching on such issues as the Government did not notify Smith of their intent to use a second robbery conviction, additional claims concerning the District Court's failure to follow the strictures of 21 U.S.C. § 851, non-compliance with Federal Rule of Criminal Procedure 32 (c)(3)(D) and United States Sentencing Guidelines § 6A1.3, and finally, two additional claims of ineffective assistance of counsel.

## **II. ANALYSIS**

### **A. Sentence Enhancement**

Smith first seeks relief via his claim the District Court improperly relied on his prior California conviction for possession of marijuana for sale for purposes of sentence enhancement. In his motion, Smith claims his conviction for possession of marijuana for sale was not a serious drug offense, as

defined by 18 U.S.C. § 924 (e)(2)(A)(ii). Thus, argues Smith, he does not qualify for an enhanced sentence imposed under 18 U.S.C. § 924 (e)(1).<sup>1</sup>

Curiously, the Government's response claims Smith is procedurally barred from raising this issue, as it was not raised at the sentencing hearing or on direct appeal.<sup>2</sup>

Smith appealed the instant conviction to the Tenth Circuit, raising two issues. Of relevance here, Smith asserted the District Court was without jurisdiction to sentence him pursuant to 18 U.S.C. § 924 (e)(1) (Armed Career Criminal Act, hereinafter "ACCA"), as the Government failed to demonstrate his previous drug conviction was a serious drug offense. The Tenth Circuit held the District Court did have jurisdiction to sentence Smith pursuant to 18 U.S.C. § 924 (e)(1). In its Order and Judgment, the Tenth Circuit stated:

Here, the Defendant had adequate notice of the prior offenses used to sentence him under the enhancement provisions of the ACCA. Further, the court's jurisdiction to sentence under the ACCA once the predicate offenses were adequately established does not depend on government action. Once the district court becomes aware that a defendant's record satisfies the requirements of § 924 (e)(1), the enhancement is mandatory. Here, the district court properly relied on two counts of a three-count conviction for armed robbery, and one conviction for possession of marijuana for sale as the predicate convictions for enhancement under the ACCA. Therefore, the district court properly sentenced Defendant under the ACCA.

(Order and Judgment of Tenth Circuit Court of Appeals, p. 4, Docket # 30) (citations omitted).

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<sup>1</sup>At the time Smith was convicted of Possession of Marijuana for Sale, California Health and Safety Code, Division 10, Chapter 6, Article 2, § 11359, (the statute under which Smith was convicted) provided for a maximum term of imprisonment of not more than ten years. This maximum term of imprisonment qualifies Smith's 1991 conviction for possession of marijuana for sale as a serious drug offense, as defined by 18 U.S.C. § 924 (e)(2)(A)(ii).

<sup>2</sup>The Government's position overlooks the fact Smith's Response to Information Giving Notice of Eligibility for Sentence Enhancement espouses his position the marijuana conviction can not be used as a predicate offense. Also, Smith's direct appeal goes to the heart of whether his marijuana conviction could be used as a predicate offense for enhancement purposes.

Smith's current claim is nothing more than a poorly disguised attack on the District Court's jurisdiction to sentence him pursuant to 18 U.S.C. § 924(e)(1). The Tenth Circuit's holding that the District Court did have such jurisdiction concludes the matter.

In a somewhat related theory, Smith urges this Court to reduce his sentence because the District Court did not follow the strictures of 21 U.S.C. § 851. Smith's misguided arguments appear to stem from a seed planted by his counsel. On February 10, 1994, Smith's counsel filed a Response to the Government's Notice of Eligibility for Sentence Enhancement. In the Response, Smith's counsel asserts the Government's notice does not comply with the requirements of 21 U.S.C. § 851 in all particulars. See Response to Information Giving Notice of Eligibility for Sentence Enhancement, Docket # 21. However, 21 U.S.C. § 851 applies only to persons convicted of an offense under Part D of Chapter 13 of Title 21.<sup>3</sup> The conviction from which Smith seeks relief is for possession of a firearm after former conviction of a felony, pursuant to 18 U.S.C. § 922 (g). Thus, 21 U.S.C. § 851 does not apply to the instant matter.

#### **B. Findings of Fact to Smith's Objections to the Presentence Report**

Smith's contention the Government did not notify him of their intention to use a second conviction for armed robbery is without merit. In the Objection to Presentence Investigation Report, Smith's counsel objected to the use of Smith's second conviction for armed robbery, arguing the two robberies were "a single act of criminality." See Objection to Presentence Report, p. 1, Docket # 22. At the sentencing hearing, Smith's counsel conceded the case of United States v. Tisdale, 921 F.2d

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<sup>3</sup>Title 21 is titled Food and Drugs. Chapter 13 of Title 21 deals with Drug Abuse Prevention and Control. Part D of Chapter 13 deals with Offenses and Penalties.

1095 (10th Cir. 1990), was controlling and resolved the issue against his client. See Transcript of Sentencing Hearing, p. 3, lines 18-25. Smith was notified of the Government's intent to use the second armed robbery conviction, otherwise Smith's counsel would not been able to object to the use of the second armed robbery conviction. Furthermore, any claim by Smith the Government employed improper procedure in the notification of its intent to use the second armed robbery conviction for purposes of enhancement is also without merit.<sup>4</sup>

### **C. Ineffective Assistance of Counsel**

To succeed on his claims of ineffective assistance of counsel Smith must show his counsel's representation fell below an objective standard of reasonableness; and that but for counsel's unprofessional errors, the result of the proceeding would have been different. Strickland v. Washington, 466 U.S. 668 (1984). Smith alleges three instances of ineffective assistance of counsel.

First, Smith claims his counsel was ineffective for stipulating to the fact the firearm Smith possessed after former conviction of a felony traveled via interstate commerce. The Court believes Smith has not satisfied either prong of Strickland regarding this particular claim. Smith states such a stipulation was unprofessional, as the element of whether the subject firearm traveled in interstate commerce was his only defense. The Court notes Smith and his counsel signed the stipulation. The Government notified Smith of their intention to call as a witness a Special Agent of the United States Department of Treasury, Bureau of Alcohol, Tobacco, and Firearms. The Agent would have testified the subject firearm was manufactured in a state other than Oklahoma and therefore would have had

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<sup>4</sup>"It is also to be noted that the procedural steps relative to the imposition of an enhanced sentence under 18 U.S.C. § 924 (e) are not set forth by statute and may vary to some extent from jurisdiction to jurisdiction." United States Sentencing Guidelines § 4B1.4, Application Note.

to travel in interstate commerce to reach Oklahoma, thus in and affecting interstate commerce. Counsel's tactical decision to forego the calling of the Special Agent does not fall below reasonable professional assistance. Beyond that, Smith offers no evidence the firearm he possessed was manufactured in Oklahoma. Smith was not denied effective assistance of counsel.

Smith next argues his counsel was ineffective for not holding the Government to its burden of proof concerning Smith's "filing of the [21 U.S.C. §] 851 (c)(1) Notice of Eligibility, because the Government had failed to meet all the particulars..." See Defendant's Response to Government's Traverse, p. 6, Docket # 41. As discussed above, 21 U.S.C. § 851 does not apply to the instant matter. Smith's argument is without merit.

In his final claim of ineffective assistance of counsel, Smith insists his counsel should have required the district court to make a finding of fact "as to whether the two California drug convictions meet prerequisites under [18 U.S.C. §] 924 (e)(1); before sentencing, and to resolve objection to the filing of the 851, without specifying all the particulars."<sup>5</sup> *Id.* The District Court found all three predicate offenses met the prerequisites of 18 U.S.C. § 924 (e)(1). Otherwise, the District Court would not have allowed said convictions to be used as predicate offenses for 18 U.S.C. § 924 (e)(1) enhancement purposes. Any argument dealing with 21 U.S.C. § 851 is misplaced. Accordingly, this argument must fail.

#### **D. *Mens rea* requirement as to the Interstate Travel of the Firearm**

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<sup>5</sup>The Court notes the initial Indictment referred to Smith's prior convictions for Second Degree Robbery, Possession of Marijuana/Hashish for Sale, and Possession of Narcotic Controlled Substance for Sale, all occurring in California. At sentencing, the Government was no longer relying on the Possession of Narcotic Controlled Substance for Sale conviction.

Smith's initial argument concerning a *mens rea* element of 18 U.S.C. § 922 (g) was that neither the Court nor the jury found Smith knew the firearm he possessed had traveled in interstate commerce. In his Response, Smith's argument metamorphosizes into an ineffective assistance of counsel/public policy dissertation. Smith and his counsel stipulated at trial the subject firearm traveled in interstate commerce. As discussed above, Smith did not receive ineffective assistance of counsel based on this stipulation.

The law in this Circuit is clear; 18 U.S.C. § 922 (g) does not require the defendant to know the firearm has traveled in interstate commerce. United States v. Capps, 77 F.3d 350, 352 (10th Cir. 1996) (citing United States v. Main, 33 F.3d 1222, 1228 (10th Cir. 1994), United States v. Flowers, 29 F.3d 530, 534 (10th Cir. 1989), United States v. Shunk, 881 F.2d 917, 921 (10th Cir. 1989)). The only element involving *mens rea* necessary for a conviction under 18 U.S.C. § 922 (g) is that the defendant knowingly possess a firearm. Capps, *supra*. The jury made the requisite finding that Smith knowingly possessed the subject firearm. Thus, Smith is not entitled to have his sentence vacated, set aside, or corrected on this claim.

#### **E. Non-Compliance with Fed.R.Crim.P. 32 (c)(3)(D) and U.S.S.G. § 6A1.3**

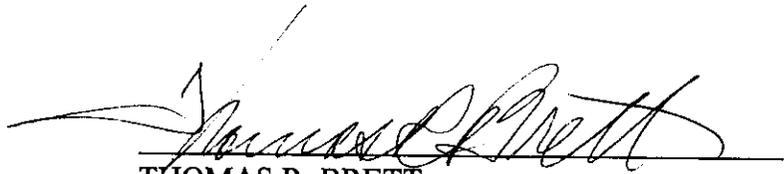
One peripheral issue raised by Smith in his Response is a claim his sentence should be altered due to non-compliance with Federal Rule of Criminal Procedure 32 (c)(3)(D) and United States Sentencing Guidelines § 6A1.3. Federal Rule of Criminal Procedure 32 (c)(3)(D) deals with the Government's right to be heard at sentencing. The Court provided the Government's attorney an opportunity equivalent to that of Smith's counsel. See Transcript of Sentencing Hearing, p.5, lines 4-17. Smith's claim is unfounded.

As to Smith's claim United States Sentencing Guidelines § 6A1.3 was not complied with, the Court is of the opinion said section is inapplicable to the instant matter. § 6A1.3 applies when there are disputed factors in the sentencing determination. The only "disputes" raised by Smith went to the previously determined issues of whether the District Court could properly rely on two convictions of armed robbery when the offenses occurred relatively close in time, and whether 21 U.S.C. § 851 applied. As previously stated, Smith's counsel agreed the armed robbery convictions could each be used as a predicate offense for purposes of sentence enhancement. The Court has herein held 21 U.S.C. § 851 does not apply in this case. An absence of disputed factors strips this argument of any merit.

**III. CONCLUSION**

For the foregoing reasons, Smith's motion to vacate, set aside, or correct sentence is hereby DENIED in its entirety.

IT IS SO ORDERED THIS 6<sup>th</sup> day of Dec, 1996.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT COURT

**FILED**

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

DEC 5 1996

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 STEVEN SECHREST, and )  
 ROBERT F. FEIGE, )  
 )  
 Defendants. )

Case No. 96-CR-89-H

ENTERED ON DOCKET  
DATE DEC 9 1996

**ORDER OF DISMISSAL WITHOUT PREJUDICE**

Plaintiff's Motion to Dismiss Without Prejudice comes on for the Court's consideration on this 5th day of December, 1996.

The United States moves for dismissal of the pending Indictment and Superseding Indictment without prejudice, pursuant to Fed. R. Crim. P. 48(a). Attorneys for the defendants have been contacted and have no objection to the dismissal without prejudice.

IT IS THEREFORE THE ORDER OF THE COURT that the Court hereby orders dismissal of the Indictment and the Superseding Indictment against STEVEN SECHREST and ROBERT F. FEIGE without prejudice to refiling by the government.

  
SVEN ERIK HOLMES  
United States District Judge

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

**F I L E D**

DEC 06 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
DONALD B.W. EVANS, JR., )  
)  
Defendant. )

No. 90-CR-31-01-E

ENTERED ON CLERK'S OFFICE  
DEC 9 9 1996  
DATE \_\_\_\_\_

ORDER

Now before the Court is the Motion Pursuant to 18 U.S.C. §3582(c)(2) of the Defendant, Donald B.W. Evans, Jr. (Docket #268).

Evans seeks a resentencing due to the November 1, 1995 amendment to the Federal Sentencing Guideline Drug Quantity Table, which now reflects a base level offense cap of level 38.<sup>1</sup> Evans' sentence was calculated with a base offense level of 40. While the government, and probation, acknowledge the amendment, both assert that it is a moot point because a recalculation of Evans' sentence using level 38 as the base offense level would result in the same guideline sentence of life.

The Court is convinced that, because the sentence that results is the same regardless of whether Evans' base offense level is 38 or 40, his request is moot and the Motion Pursuant to 18 U.S.C. §3582 (Docket #268) is denied.

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<sup>1</sup> Evans raises other arguments, regarding the definition of cocaine base in his "Traverse Motion in Support of Motion Pursuant to 18 U.S.C. §3582 (c)(2)." However, the Court declines to address those arguments here, which are irrelevant to the relief requested.

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ORDERED this 6<sup>TH</sup> day of December, 1996. .

  
\_\_\_\_\_  
JAMES O. ELLISON, SENIOR JUDGE  
UNITED STATES DISTRICT COURT

**FILED**

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

**DEC - 6 1996**

**Phil Lombardi, Clerk  
U.S. DISTRICT COURT**

UNITED STATES OF AMERICA

v.

Case Number 96-CR-070-001-B ✓

CARL ARDESE  
Defendant.

ENTERED ON DOCKET  
DATE 12-9-96

**AMENDED JUDGMENT IN A CRIMINAL CASE  
(For Offenses Committed On or After November 1, 1987)  
(Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36))**

The defendant, CARL ARDESE, was represented by Alan Core.

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

The defendant pleaded guilty to count(s) 1 of the Information on June 28, 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>
18 USC 666(a)(1)(B)	Bribery Concerning Programs Receiving Federal Funds	07/28/93	1

As pronounced on November 8, 1996, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$ 50.00, for count(s) 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 6<sup>th</sup> day of Dec, 1996.

  
The Honorable Thomas R. Brett  
Senior United States District Judge

Defendant's SSN: 442-56-8349  
Defendant's Date of Birth: 09/29/51  
Defendant's residence and mailing address: Route 1, Box 509, Red Oak, Oklahoma 74563

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

Defendant: CARL ARDESE  
Case Number: 96-CR-070-001-B

**IMPRISONMENT**

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

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons before noon on November 22, 1996.

**RETURN**

I have executed this Judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
United States Marshal

By \_\_\_\_\_  
Deputy Marshal

Defendant: CARL ARDESE  
Case Number: 96-CR-070-001-B

### SUPERVISED RELEASE

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

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

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office for a period of 5 months, to commence within 72 hours upon release from confinement. During this time, the defendant shall remain at his place of residence except for employment and other activities approved in advance by the probation office. The defendant shall maintain a telephone at his 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 cost of this program shall be paid by the defendant according to his ability to pay as determined by the U.S. Probation Office.
5. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
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.

Should the Court find at some future date that the defendant has violated the terms of supervised release, the term could be revoked and as a result, the Court could impose an additional two-year term of imprisonment for Count One.

### 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: CARL ARDESE  
Case Number: 96-CR-070-001-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 \$ 2,000.00. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid while in custody through the Bureau of Prisons' Inmate Financial Responsibility Program. Upon release from custody, any unpaid balance shall be paid during the term of supervised release.

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

Defendant: CARL ARDESE  
Case Number: 96-CR-070-001-B

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The defendant shall make restitution in the total amount of \$5,000.00.

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>
Federal Bureau of Investigation Attn: Barbara Garner 50 Penn Place, Suite 1600 Oklahoma City, Oklahoma 73118	\$5,000.00

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 unpaid balance of restitution shall not be subject to interest.

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

Defendant: CARL ARDESE  
Case Number: 96-CR-070-001-B

**STATEMENT OF REASONS**

The court adopts the factual findings and guideline application in the presentence report except: The U.S. Probation Office's determination of the applicable offense level. The Court accepts the Rule 11 Plea Agreement and is satisfied that the elements of the agreement do not undermine the statutory intent of the guidelines. The Court finds that the appropriate guideline for this offense, as stipulated in the agreement, is USSG § 2C1.2. The corresponding total Offense Level is 9 and the fine range is \$1,000 to \$10,000. In addition, in accordance with the terms of the plea agreement, the Court accepts the stipulation that the defendant shall pay \$5,000.00 restitution to the United States.

**Guideline Range Determined by the Court:**

Total Offense Level:	9
Criminal History Category:	I
Imprisonment Range:	4 months to 10 months - Ct. 1
Supervised Release Range:	2 to 3 years - Ct. 1
Fine Range:	\$ 1,000 to \$ 10,000 - Ct. 1
Restitution:	\$ 5,000 - Ct. 1

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

aw

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

12-6-96

UNITED STATES OF AMERICA

v.

Case Number 95-CR-025-002-K

ROY DOUGLAS WINKLEMAN  
Defendant.

**FILED**

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

DEC 06 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

The defendant, ROY DOUGLAS WINKLEMAN, was represented by Roy W. Byars.

The defendant pleaded guilty to count(s) 1 of the Information on November 21, 1996. Accordingly, the defendant is adjudged guilty of such count(s), involving the following offense(s):

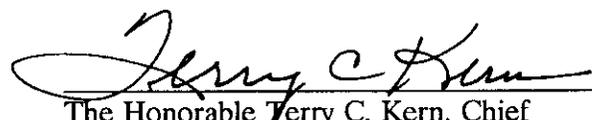
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC 924(c)(1)	Possession of a Firearm During a Drug Trafficking Crime	12/31/94	1

As pronounced on November 21, 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 4th day of December, 1996.

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

Defendant's SSN: 515-62-9944  
Defendant's Date of Birth: 12/19/56  
Defendant's mailing address: 601 North Beaumont, Owasso, OK 74055  
Defendant's residence address: C/O USP Leavenworth, Leavenworth, KS

Defendant: ROY DOUGLAS WINKLEMAN  
Case Number: 95-CR-025-002-K

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 60 months.

The Court makes the following recommendations to the Bureau of Prisons: 1) The Court recommends to the Bureau of Prisons that the defendant be placed at a facility that can provide comprehensive substance abuse treatment during service of this sentence; 2) The Court orders that the Bureau of Prisons credit the current sentence for time served on the vacated sentence in Northern District of Oklahoma case 95-CR-025-002-K, imposed September 19, 1995; 3) The Court orders that any fine amount previously paid on the sentence in this case be credited to the fine imposed November 21, 1996.

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: ROY DOUGLAS WINKLEMAN  
Case Number: 95-CR-025-002-K

### SUPERVISED RELEASE

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

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

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall 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: ROY DOUGLAS WINKLEMAN  
Case Number: 95-CR-025-002-K

**FINE**

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

The defendant shall pay a fine of \$ 5,000.00. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid 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: ROY DOUGLAS WINKLEMAN  
Case Number: 95-CR-025-002-K

**STATEMENT OF REASONS**

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

**Guideline Range Determined by the Court:**

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

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

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

**F I L E D**

DEC 04 1996

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

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 DEAN JONATHAN TALLEY, )  
 )  
 Defendant. )

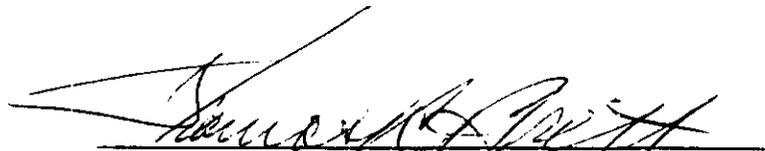
No. 93-CR-177-B

ENTERED ON DOCKET  
DATE DEC 05 1996

O R D E R

Before the Court is Defendant's Motion for Judicial Recommendations Concerning the Sentence (Docket No. 77). Defendant Dean Jonathan Talley ("Talley") requests the Court to recommend to the Bureau of Prisons that he be considered for placement in the shock incarceration program at Lewisburg, Pennsylvania. Upon review of the motion and the government's objection, the Court grants defendant's request and recommends to the Bureau of Prisons that Talley be placed in the Federal Intensive Confinement Center at Lewisburg, Pennsylvania, when he becomes eligible for admission.

ORDERED this 4<sup>th</sup> day of December, 1996.

  
THOMAS R. BRETT, Senior Judge  
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE **F I L E D**  
NORTHERN DISTRICT OF OKLAHOMA

DEC 04 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
-vs- )  
)  
SOLOMON OLUGBENGA AJIBOLA )  
KALEJAIYE, )  
)  
Defendant. )

Case No. 89-CR-136-01-E

ENTERED ON BOOK AT  
DEC 05 1996

**ORDER**

NOW, on this 4<sup>th</sup> day of November, 1996, this matter comes on for consideration pursuant to a Joint Motion Regarding Restoration of Defendant's Personal Property filed herein by the plaintiff, the United States of America, the defendant, through his counsel, Jeffrey D. Fischer, Esq., and the United States Probation Office. Upon consideration of the representations contained in the Joint Motion, the agreement of the parties, and the pleadings filed in this cause, the Court finds and **ORDERS** that possession of those items of personal property identified on August 30, 1996, as belonging to defendant Solomon Kalejaiye, should be delivered by the United States Probation Office to the defendant's counsel, Jeffrey D. Fischer, and that possession of all items of personal property seized from defendant June 15, 1996, but which cannot be clearly identified as belonging to defendant Kalejaiye should be delivered by the United States Probation Office to the United States Postal Inspection Service as evidence relevant to other on-going criminal investigations.

IT IS FURTHER ORDERED that the Smith & Wesson handgun and ammunition seized from defendant Kalejaiye on June 15, 1996, be retained in the possession and custody of the United States

Probation Office until the earlier of the date which is five (5) years from June 15, 1996, or further order of this Court.

  
\_\_\_\_\_  
JAMES O. ELLISON  
Senior United States District Judge

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

**FILED**  
DEC 03 1996  
*[Handwritten initials]*

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
PATRICK JONES, )  
)  
Defendant. )

No. 93-CR-35-C

ENTERED ON DOCKET  
DEC 04 1996

**ORDER**

Currently pending before the Court is the motion filed by defendant, Patrick Jones, seeking a certificate of appealability, pursuant to 28 U.S.C. § 2253, following this Court's denial of Jones' § 2255 motion.

Section 2253 was amended on April 24, 1996, to require the issuance of a certificate of appealability as a condition precedent to appealing a final order in § 2255 cases. 28 U.S.C. § 2253(c). On October 1, 1996, the Tenth Circuit Court of Appeals issued the following Emergency General Order with regard to habeas actions:

Under the amendments contained in the Anti-terrorist and Effective Death Penalty Act, no appeal may be taken in either state habeas cases or federal 28 U.S.C. § 2255 proceedings unless a certificate of appealability issues. 28 U.S.C. § 2253(c). Section 2253 provides that certificates to appeal should be issued, it at all, by a circuit justice or judge. Recognizing the conflict between this statute and the language of Federal Rule of Appellate Procedure 22(b), to achieve consistency within the circuit, this court directs the district courts to consider the propriety of issuing certificates of appealability in the first instance. Failure of the district court to issue a certificate of appealability within thirty days of filing the notice of appeal shall be deemed a denial.

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This Court is of the opinion that § 2253(c) does not authorize this Court to issue any certificate of appealability, since that section specifically provides that only *circuit* judges may issue such certificates.

Accordingly, Jones' request for a certificate of appealability is hereby DENIED as this Court lacks the authority to rule on such a request.

IT IS SO ORDERED this 2nd day of December, 1996.

A handwritten signature in cursive script, appearing to read "H. Dale Cook", written in black ink.

H. DALE COOK  
U.S. District Judge

UNITED STATES DISTRICT COURT  
Northern District of Oklahoma

**FILED**  
DEC 04 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Case Number 94-CR-042-001-E

DENNIS WAYNE PRESCOTT  
Defendant.

ENTERED ON DOCKET

DATE 12/4/96

**AMENDED JUDGMENT IN A CRIMINAL CASE**  
(For Offenses Committed On or After November 1, 1987)  
Direct Motion to District Court (28 USC § 2255)

The defendant, DENNIS WAYNE PRESCOTT, was represented by Stephen J. Knorr.

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

The defendant pleaded guilty to count(s) 1 of the Indictment on November 26, 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 841(a)(1)	Possession With Intent to Distribute Methamphetamine	12/14/93	1

As pronounced on November 26, 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 3<sup>rd</sup> day of December, 1996.

  
The Honorable James O. Ellison  
Senior United States District Judge

Defendant's SSN: 445-60-7497  
Defendant's Date of Birth: 12/25/57  
Defendant's mailing address: C/O Tulsa County Jail, 500 So. Denver, Tulsa, OK 74103  
Defendant's residence address: 8024 E. Oklahoma, Tulsa, OK 74115

United States District Court )  
Northern District of Oklahoma )  
I hereby certify that the foregoing is a true and correct copy of the original as filed in this court.  
Phil Lombardi, Clerk  
By B. M. Callough  
Deputy

Defendant: DENNIS WAYNE PRESCOTT  
Case Number: 94-CR-042-001-E

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 60 months. This sentence does not represent a departure from the prescribed guideline range. The sentence is imposed under Fed. R. Crim. P. 11(e)(1)(C).

The Court makes the following recommendations to the Bureau of Prisons: 1) The Court recommends to the Bureau of Prisons that the defendant be placed at a facility that can provide comprehensive substance abuse treatment during service of this sentence; 2) The Court orders that the Bureau of Prisons credit the current sentence for time served on the vacated sentence in Northern District of Oklahoma case 94-CR-042-001-E, imposed July 11, 1994; 3) The Court orders that any fine amount or special assessment previously paid on the sentence in this case be credited to the fine imposed November 26, 1996.

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: DENNIS WAYNE PRESCOTT  
Case Number: 94-CR-042-001-E

### SUPERVISED RELEASE

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

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

1. The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervised release.
3. The defendant shall not own or possess a firearm or destructive device.
4. The defendant shall successfully participate in a program of testing and treatment (to include inpatient) for drug and alcohol abuse, as directed by the Probation Officer, until such time as released from the program by the Probation Officer.
5. The defendant shall submit to a search conducted by a United States Probation Officer of his person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall not reside at any location without having first advised other residents that the premises may be subject to searches pursuant to this condition. Additionally, the defendant shall obtain written verification from other residents that said residents acknowledge the existence of this condition and that their failure to cooperate could result in revocation. This acknowledgement shall be provided to the U. S. Probation Office immediately upon taking residency.

### 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: DENNIS WAYNE PRESCOTT  
Case Number: 94-CR-042-001-E

**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 \$ 800.00. 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: DENNIS WAYNE PRESCOTT  
Case Number: 94-CR-042-001-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:	27
Criminal History Category:	I
Imprisonment Range:	120 months - Ct. 1
Supervised Release Range:	3 to 5 years - Ct. 1
Fine Range:	\$ 15,000 to \$ 4,000,000 - Ct. 1
Restitution:	N/A

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

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

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 03 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
ROMAN DEVON HANKINS, )  
 )  
Defendant. )

CASE NO. 95-CR-148-C

ENTERED ON DOCKET  
DEC 04 1996

FINAL ORDER OF FORFEITURE

WHEREAS, on August 22, 1996, this Court entered a Preliminary Order of Forfeiture pursuant to the provisions of 21 U. S. C. § 853, based upon the Consent Decree for Forfeiture executed by the defendant, Roman Devon Hankins, and filed August 22, 1996.

AND WHEREAS, on September 12, 19, and 26, 1996, the United States published in the Tulsa Daily Commerce & Legal News, Tulsa, Oklahoma, a newspaper of general circulation in the district in which this action is filed and in which the seized property is located, notice of this forfeiture and of the intent of the United States to dispose of the following-described properties according to law, and further notifying all third parties of their right to petition the Court within thirty (30) days after the date of last publication for a hearing to adjudicate the validity of their alleged legal interest in the property and Proof of Publication was filed herein on October 25, 1996;

AND WHEREAS, it appears from the record that no claims, contested or otherwise, have been filed for any of the properties

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described in the Court's Preliminary Order of Forfeiture filed August 22, 1996.

IT IS, HEREBY ORDERED, ADJUDGED, AND DECREED by the Court as follows:

1. That the right, title, and interest to all of the hereinafter-described properties of the defendant, Roman Devon Hankins, is hereby condemned, forfeited, and vested in the United States of America, and shall be disposed of according to law.

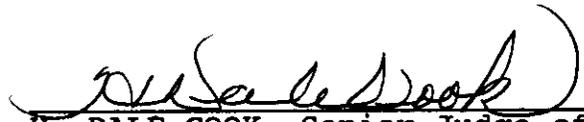
2. That the following-described properties belonging to Roman Devon Hankins, are hereby condemned and forfeited to the United States of America:

1. **One 1978 Ford LTD, VIN 8U64HX176425; bearing License No. ISI 277,**
2. **The sum of One Hundred Sixty-seven Thousand Two Hundred Sixty Dollars (\$167,260.00) in United States Currency,**
3. **One H.K. 9 mm semi-automatic assault pistol, Serial No. 21-14052, and ammo magazines.**

3. That any and all forfeited funds, including, but not limited to, currency, currency equivalents, and certificates of deposit, as well as any income derived as a result of the United States Marshals management of any properties forfeited herein, and the proceeds from the sale of any forfeited properties, after the payment of costs and expenses incurred in connection with the

forfeiture, sale, and disposition of the forfeited properties, shall be deposited forthwith by the United States Marshals Service into the Department of Justice Forfeiture Fund in accordance with 28 U.S.C. § 524(c) and 21 U.S.C. § 853.

ENTERED this 2nd day of Dec., 1996.



H. DALE COOK, Senior Judge of the  
United States District Court  
Northern District of Oklahoma

SUBMITTED BY:



CATHERINE DEPEW HART  
Assistant United States Attorney

N:\UDD\CHOOK\FC\HANKINS1\05258

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

DEC 02 1996

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

UNITED STATES OF AMERICA  
Plaintiff

VS

Jerry Tipton  
Defendant

Case Number: 95-CR-032-002-B

ENTERED ON DOCKET  
DATE DEC 03 1996

JUDGMENT AND COMMITMENT ORDER  
ON REVOCATION OF PROBATION

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

Now on this 21st day of November, 1996, this matter comes on for sentencing after a previous finding that the defendant violated conditions of probation as set out in the Petition on Probation filed on October 29th, 1996. The defendant is present in person and with his attorney, Mike Abel. The Government is represented by Assistant U. S. Attorney Scott Woodward, and the U. S. Probation Office is represented by Randall Drew.

The defendant was heretofore, on January 7, 1995, sentenced after a plea of guilty to Count Two of a four count Indictment which charged Possession of Stolen U.S. Bonds, in violation of Title 18, U.S.C. § 510 (b). The defendant was sentenced to a four year period of probation with a condition that he participate in urinalysis testing and drug treatment as directed by the Probation Office. Tipton was ordered to pay a fine in the amount of \$1,000 and a Special Monetary Assessment of \$50. In addition, the defendant was ordered to spend the first two months of his probation term on home confinement. The standard conditions of probation recommended by the Sentencing Commission were also imposed.

On November 21, 1996, a Revocation Hearing was held regarding the allegations noted in the Petition on Probation, said allegations being that the defendant submitted urine specimens which tested positive for Amphetamine and Methamphetamine on July 13, 1995, and on July 8, 1996. Further, the petition alleged that Tipton submitted urine samples that tested positive for Benzodiazepines and Marijuana on September 8, 1995, and October 15, 1996, respectively. Also alleged in the petition were the defendant's failure to successfully complete a drug treatment program, and a further law violation which stemmed from an incident involving assault and battery. At the revocation hearing, the defendant stipulated to all allegations contained in the petition, and the Court found the defendant to be in violation of probation according to allegations.

On November 21, 1996, subsequent to the sentencing hearing, and after having reviewed the sentencing memorandum prepared by the Probation Office for this case, the defendant requested that the Court move directly to sentencing. The Court did so, and found that the violations occurred after November 1, 1987, and that Chapter 7 of the U. S. Sentencing Guidelines is applicable. Further, the Court found that the violations of probation constitute a Grade C violation in accordance with U.S.S.G. 7B1.1(a)(3), and that the defendant's original Criminal History Category of III was applicable for determining the imprisonment range. In addition, the Court found that a Grade C violation and a Criminal History Category of III establish a revocation imprisonment range of five to eight months. In consideration of these findings and pursuant to U.S. vs. Lee, 957 F2d 770 (10th Cir. 1992), in which the Circuit determined that the policy statements in Chapter 7 were not mandatory, but must be considered by the Court, the following was ordered:

The defendant is committed to the custody of the U. S. Bureau of Prisons to be imprisoned for a term of five months. Following the period of incarceration, the defendant is ordered to serve a term of supervised release for a period of two years. During the term of supervised release, the defendant is ordered to abide by the standard and special conditions as they appear on the Judgement and Commitment Order for the original sentence in this case. The remaining \$580 of the original \$1,000 fine imposed at original sentencing is hereby reimposed. The defendant shall receive credit for time served in jail since his arrest on October 28th, 1996.

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

A handwritten signature in cursive script, reading "Thomas R. Brett". The signature is written in black ink and is positioned above the printed name and title.

The Honorable Thomas R. Brett  
Senior United States District Judge

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

**F I L E D**

NOV 27 1996

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 LISA DENNY DEMEREE, )  
 )  
 Defendant. )

Case No. 96-CR-151-C

ENTERED ON DOCKET  
DATE DEC 02 1996

ORDER

This matter came before the Court for de novo hearing on November 13, 1996 on the motion filed by the defendant Lisa Demeree, for "Review and Appeal of Detention Order" entered by a magistrate judge on September 18, 1996. Defendant seeks release on bond to remain under the custody of certain private individuals. For the following reasons, defendant's motion for release from pretrial detention is hereby denied.

Title 18, United States Codes, Section 3142(e) provides that detention shall be ordered if "the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community." If no combination of conditions will both assure the defendant's appearance and the safety of the community then the defendant must be detained. Section 3142 (e) contains a presumption in the case of certain serious offenses. This presumption was described in U.S. v. Stricklin, 932 F.2d 1353, 1354-55 (10th Cir.1991), where the court said:

*Called  
Dismiss*

Under [18 U.S.C. § 3142(e)], upon a finding of probable cause that the defendant has committed a federal drug offense carrying a maximum prison term of ten years or more, a rebuttable presumption arises that no conditions of release will assure defendant's appearance and the safety of the community. Once the presumption is invoked, the burden of production shifts to the defendant. However, the burden of persuasion regarding risk-of-flight and danger to the community always remains with the government. The defendant's burden of production is not heavy, but some evidence must be produced. Even if a defendant's burden of production is met, the presumption remains a factor for consideration by the district court in determining whether to release or detain.

At the detention hearing before the magistrate, the government introduced evidence through Corporal Harold Wells of the Tulsa Police Department, Special Investigations Division, linking the defendant to a large scale drug organization. Corporal Wells obtained information from an informant and from the search of certain property identified by the informant as belonging to the subject drug organization. Corporal Wells testified that he had been informed that a large scale drug organization operated out of certain houses and two mini-storage units located in the Tulsa area. A subsequent search of the storage units and houses resulted in the seizure of approximately ten pounds of narcotics, 6,000 rounds of ammunition used in automatic assault rifles, and several handguns.

At the hearing before this Court, the defendant challenged the accuracy of Corporal Wells' testimony. The defendant contends that Corporal Wells has previously testified that shortly after the defendant was arrested she had confessed to having been involved in the drug organization. At the hearing, the defendant offered a transcript of a taped conversation between the defendant and Terry Glenn. The conversation occurred in a patrol car immediately following defendant's arrest. The defendant contends that the recording establishes that she had not confessed to her involvement in the drug conspiracy. The Court has reviewed the transcript and finds that although the defendant did

not make an outright confession of her involvement, taken as a whole, the conversation between the defendant and Mr. Glenn tends to implicate the defendant's involvement in drug trafficking.

The defendant also challenges government's evidence which showed that the defendant had approximately \$30,000 in a checking account in California and the implication that such a large sum of money was proceeds from her drug transactions. To offset this evidence, the defendant offered documentation of having received \$29,587 from insurance proceeds as a result of her involvement in an automobile accident which occurred in California, to indicate that the money was from a legitimate source.

After considering the defendant's evidence, the Court finds that although such evidence can be used as part of her defense at trial, it is not sufficient for this Court to release her on bond pending trial in view of the other evidence presented. The defendant's evidence is offered to try to show a lack of probable cause that the defendant was involved in the subject drug conspiracy. However, the issue of probable cause was presented to the Grand Jury, who in turn found sufficient cause to issue the indictment. The defendant has not offered sufficient evidence to overcome such a finding.

Moreover, the Court finds that the defendant does pose a danger to the community and is a flight risk. At the hearing before the magistrate, the government offered evidence that the defendant is known to carry a .45 automatic weapon in her waistband. She does not maintain a home in Tulsa, but operates a small business in Arkansas which is also believed to be a front for the drug organization. The defendant does not have family ties in Tulsa, but her brother and mother reside in Sperry, Oklahoma. When visiting Tulsa, the defendant stays in motels or with friends. The defendant is also known to associate with persons having been previously convicted of drug trafficking.

At the hearing before the magistrate, the defendant requested that she be released to the custody of her brother. However, there was no credible evidence of a close family tie between the defendant and her brother, Brad Demeree, who lives in a mobile home near Sperry, Oklahoma. Although the defendant's brother resides in Sperry, her brother was unable to name any of the defendant's friends and was uncertain of the last name of defendant's boyfriend. This lack of knowledge indicates that the communication channel between the defendant and her brother is something less than open or frequent. At the hearing, the defense attorney requested that the Court release the defendant to a retired deputy sheriff who was a close friend of defendant's family. However, the request was made through her attorney's proffer of evidence. The individual was not present in the courtroom nor did he provide the Court with an affidavit or testimony of his willingness to assume custody of the defendant. Under the circumstances of this case, the Court does not believe that it is in the best interest of the public to release the defendant to the custody of an unknown individual, offered to the Court strictly through statements made by defense counsel.

Moreover, Corporal Wells testified before the magistrate that he had received information from authorities in Arkansas that the defendant was known to store "LAWS rockets" on her property in Arkansas. "LAWS rockets" were identified as light anti-tank, anti-aircraft weapons that can be fired from a person's shoulder.

The defendant is charged in the indictment with violations of Title 21, U.S.C. Section 846, conspiracy to distribute controlled substance, Title 21 U.S.C. Section 841(a)(1), possession with intent to distribute controlled substance and Title 21 U.S.C. Section 856, maintaining a place for distribution of controlled substance. At the hearing before the magistrate, the defendant argued that there was insufficient evidence to establish probable cause as to the charges brought in the indictment.

A grand jury indictment is sufficient to establish a finding of probable cause under Title 18, U.S.C. Section 3142(e). U.S. v. Stricklin, 932 F.2d at 1355. If convicted, the defendant is facing a term of imprisonment of ten years to life. Government has expressly invoked the presumption of detention for offenses which carry a term of imprisonment of ten years or more as prescribed in the Controlled Substance Act, Title 21, U.S.C. Section 801 et seq.

From a review of the transcript of hearing before the magistrate, the government's evidence showed that the defendant is a flight risk in that she has no strong residential ties to Tulsa.

The government's evidence showed that the defendant is a danger to the community in that she is known to be associated with convicted felons, dangerous weapons and high powered ammunition. The weight of the evidence against the defendant is sufficiently strong to detain the defendant pending trial.

The Court finds that defendant's renewed request to (1) be placed in the custody of a family member or another, (2) establish employment and (3) be under electronic monitoring, are insufficient factors in view of the strong evidence against the defendant offered by the government. Defendant's brother indicated that the defendant carries or has access to a pager. The presence of a pager, in combination with the other evidence presented at the hearing, is circumstantial evidence that the defendant has been in the drug business and that the risk of continued narcotics trafficking while on bond does constitute a risk to the community. The rebuttable presumption of Section 3142(e) shifts to the defendant only the burden of producing rebuttable evidence, not the burden of persuasion. However, the mere production of evidence on the part of the defendant does not completely rebut the presumption raised by the grand jury indictment.

The Court finds and concludes that the defendant has not offered sufficient evidence to rebut the evidence that she is a flight risk, or a danger to the community, and that no condition or combination of conditions will reasonably assure her appearance at trial. Defendant's motion for release on bond pending trial is accordingly denied.

IT IS SO ORDERED this 27 day of November, 1996.

A handwritten signature in black ink, appearing to read "H. Dale Cook", written in a cursive style. The signature is positioned above a horizontal line.

H. DALE COOK  
Senior United States District Judge