

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

OCT 18 2000

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

JUDGMENT AND ORDER ON
REVOCATION OF SUPERVISED RELEASE
(For Offenses Committed On or After November 1, 1987)

Robert Lamont Horey

Case Number: 93-CR-093-001-B

ENTERED ON DOCKET

Cindy Cunningham
Defendant's Attorney

DATE 10-18-00

THE DEFENDANT, heretofore convicted and sentenced in Counts 1 & 2 as set out in Judgment and Commitment Order entered November 26, 1993, and released to the 3 year term of supervised release May 4, 1999:

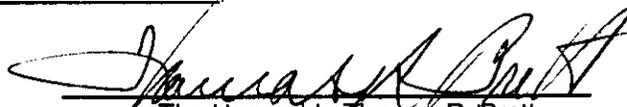
Was found in violation of Mandatory Condition, Special Condition #1, Condition #5 and Special Condition #3 of the term of supervision as to counts 1 & 2 after denial of guilt.

<u>Condition Number</u>	<u>Nature of Violation</u>
Mandatory Condition	Violation of State and Federal Law - Distribution of Marijuana.
Special Condition #1	Providing multiple urinalysis samples positive for marijuana.
Condition #5	Failing to work regularly during October, November and December 1999.
Special Condition #3	Unauthorized leave from residence on September 6, 2000, during service of electronic monitoring.

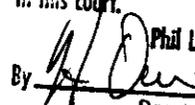
As pronounced on October 12, 2000, the defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS 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 18th day of Oct. 2000.


The Honorable Thomas R. Brett
Senior U.S. District Judge

Defendant's Soc. Sec. No.: 446-68-8893
Defendant's Date of Birth: 02-15-69
Defendant's USM No.: 07093-062
Defendant's Residence and Mailing Address: 3656 S. Maplewood #B, Tulsa, OK 74135

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

IMPRISONMENT

The Court finds that the instant offense occurred after November 1, 1987. Consistent with the 10th Circuit decision in U.S. v. Lee, Chapter Seven provisions are not mandatory, but the Court has considered them in arriving at this sentence.

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of twenty-four (24) months, said terms shall run concurrently, each with the other.

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

RETURN

I have executed this Judgment as follows:

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

United States Marshal

By: _____
Deputy Marshal

CRIMINAL MONETARY PENALTIES

The defendant shall pay a fine in the amount of \$279 as to Counts 1 & 2.

Payments for any unpaid balances shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Any unpaid criminal monetary penalty 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.

Unless the interest was waived at the original sentencing, the defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

If the fine and/or restitution is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614. The defendant shall notify the Court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine.

All criminal monetary penalty payments are to be made to the United States District Court Clerk, 333 West 4th Street, Rm. 411, Tulsa, Oklahoma 74103, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

STATEMENT OF REASONS

Pursuant to 18 U.S.C. § 3553 (c), the Court states the reasons for imposition of the sentence:

Sentence is imposed to reflect the serious nature of the violation consisting of the distribution of marijuana while serving a term of supervised release.

FILED

DEC 01 2000

Phil Lombardi, Clerk
U.S. DISTRICT COURT

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

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

UNITED STATES OF AMERICA

V.

Case Number: 00-CR-069-001-J ✓

Ebonni Marie Vaden

Stephen Knorr
Defendant's Attorney

THE DEFENDANT:

ENTERED ON DOCKET
DATE DEC 01 2000

Pleaded guilty to Count One of the Information on August 9, 2000.

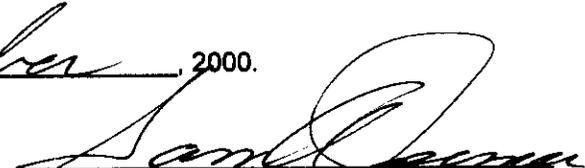
Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title and Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count</u>
18 USC 656	Misapplication of Bank Funds by an Employee, a Misdemeanor	12-07-99	1

As pronounced on November 29, 2000, 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 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 1 day of December, 2000.


The Honorable Sam A. Joyner
U.S. Magistrate Judge

Defendant's Soc. Sec. No.: 440-82-1420
Defendant's Date of Birth: January 5, 1981
Defendant's USM No.: 08766-062
Defendant's Residence and Mailing Address: 9750 East 31st St, Apt. 3101, Tulsa, OK 74146



PROBATION

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

While on probation, the defendant shall not commit another federal, state, or local crime; shall not illegally possess a controlled substance; 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 supervision that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervision.

STANDARD CONDITIONS OF PROBATION

1. You will not leave the judicial district without permission of the Court or probation officer.
2. You will report to the probation officer and submit a truthful and complete written report within the first five days of each month.
3. You will answer truthfully all inquiries by the probation officer, and follow the instructions of the probation officer.
4. You will successfully participate in cognitive/life skills training or similar programming as directed by the probation officer.
5. You will support your dependents and meet other family responsibilities, to include complying with any court order or order of administrative process requiring the payment of child support.
6. You will work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
7. You will notify the probation officer ten days prior to any change of residence or employment.
8. You will not frequent places where controlled substances are illegally sold, or administered; you shall refrain from excessive use of alcohol and will not purchase, possess, use, or distribute any controlled substance or paraphernalia related to such substances, except as prescribed by a physician.
9. You will submit to urinalysis or other forms of testing to determine illicit drug use as directed by the probation officer; if directed by the probation officer, you will successfully participate in a program of testing and treatment (to include inpatient) for substance abuse until released from the program by the probation officer.
10. You will not associate with any persons engaged in criminal activity, and will not associate with any person convicted of a crime unless granted permission to do so by the probation officer.
11. You will permit a probation officer to visit at any time at your home, employment or elsewhere and will permit confiscation of any contraband observed in plain view by the probation officer.
12. You will provide access to all personal and business financial information as requested by the probation officer; and you shall, if directed by the probation officer, not apply for or acquire any credit unless permitted in advance by the probation officer.
13. You will notify the probation officer within seventy-two hours of being arrested, questioned, or upon having any contact with a law enforcement officer.
14. You will not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the Court.
15. As directed by the probation officer, you will notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and permit the probation officer to make such notifications and to confirm your compliance with such notification requirements.
16. You will not possess a firearm, destructive device, or other dangerous weapon.

ADDITIONAL CONDITIONS:

1. The defendant shall abide by the "Special Financial Conditions" enumerated in General Order Number 99-12, filed with the Clerk of the Court on July 13, 1999.

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties; payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

ASSESSMENT

\$25.00

RESTITUTION

\$5,000.00

FINE

\$0.00

ASSESSMENT

It is ordered that the defendant shall pay to the United States a special assessment of \$25.00 for Count One of the Information, which shall be due immediately.

RESTITUTION

The defendant shall make restitution in the total amount of \$5,000.00. The interest for restitution is waived by the Court.

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

<u>Name of Payee</u>	<u>Payee Address</u>	<u>City, State, Zip</u>	<u>Amount</u>
Community Bank & Trust Attn: Roy Wile	P.O. Box 9428	Tulsa, OK 74157	\$5,000.00

Restitution shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of probation. The defendant shall notify the Court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution.

If a victim has received compensation from insurance or any other source with respect to a loss, restitution shall be paid to the person who provided or is obligated to provide the compensation, but all restitution of victims shall be paid to the victims before any restitution is paid to such a provider of compensation.

Unless the interest is waived, the defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

If the fine and/or restitution is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614. The defendant shall notify the Court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine.

All criminal monetary penalty payments are to be made to the United States District Court Clerk, 333 West 4th Street, Rm. 411, Tulsa, Oklahoma 74103, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

STATEMENT OF REASONS

The Court adopts the factual findings and guidelines application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	4	
Criminal History Category:	1	
Imprisonment Range:	0 to 6 months	Count 1
Supervised Release Range:	1 year	Count 1
Fine Range:	\$250.00 to \$5,000.00	Count 1

Total amount of Restitution: \$5,000.00.

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 sentence is imposed for the following reason: The defendant is a first time offender and a sentence of probation would allow her to continue her employment in order to pay restitution.

BJS

FILED

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

ndc MAR 01 2001

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

ROBERT LEWIS PETTIGREW

**JUDGMENT AND ORDER ON
REVOCATION OF SUPERVISED RELEASE**
(For Offenses Committed On or After November 1, 1987)

Case Number: 93-CR-092-001-E ✓

ENTERED ON DOCKET

Beverly Atteberry
Defendant's Attorney

DATE 3-1-01

THE DEFENDANT, heretofore convicted and sentenced in Counts 1 and 4 as set out in Judgment and Commitment Order entered December 10, 1993, and released to a three (3) year term of supervised release December 26, 1996. The terms of supervised release were revoked on August 14, 1998, resulting in an eighteen (18) month term of confinement followed by an eighteen (18) month term of supervised release commencing October 29, 1999:

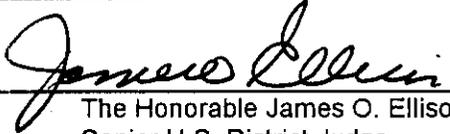
Admitted guilty to violation of the General Conditions of the term of supervision as to Counts 1 and 4.

<u>Condition Number</u>	<u>Nature of Violation</u>
General Condition	Violation of Law - Possession of a Firearm AFCF
General Condition	Violation of Law - Domestic Assault and Battery

As pronounced on February 15, 2001, 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.

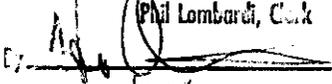
IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Signed this the 22nd day of February, 2001.


The Honorable James O. Ellison
Senior U.S. District Judge

Defendant's Soc. Sec. No.: 443-72-2328
Defendant's Date of Birth: 01/30/62
Defendant's USM No.: 07146-062
Defendant's Residence and Mailing Address: 13059 E. 16th Street, Tulsa, OK 74108

United States District Court }
Northern District of Oklahoma } 53
I hereby certify that the foregoing
is a true copy of the original on file
in this court.

(Phil Lombardi, Clerk)


IMPRISONMENT

The Court finds that the instant offense occurred after November 1, 1987. Consistent with the 10th Circuit decision in U.S. v. Lee, Chapter Seven provisions are not mandatory, but the Court has considered them in arriving at this sentence.

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of six (6) months as to Count 1 and six (6) months as to Count 4, to run consecutively, each to the other, for a total sentence of twelve (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

CRIMINAL MONETARY PENALTIES

The defendant shall pay a fine in the amount of \$1,007.00 as to Count 1.

Payments for any unpaid balances shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Any unpaid criminal monetary penalty 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.

Unless the interest was waived at the original sentencing, the defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

If the fine and/or restitution is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614. The defendant shall notify the Court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine.

All criminal monetary penalty payments are to be made to the United States District Court Clerk, 333 West 4th Street, Rm. 411, Tulsa, Oklahoma 74103, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

STATEMENT OF REASONS

Pursuant to 18 U.S.C. § 3553 (c), the Court states the reasons for imposition of the sentence:

The maximum sentence is imposed based on the seriousness of the violations.

FILED

MAR 01 2001

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

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

Milton Thomas Walton

**JUDGMENT AND ORDER ON
REVOCATION OF SUPERVISED RELEASE**
(For Offenses Committed On or After November 1, 1987)

Case Number: 90-CR-066-001-C

ENTERED ON DOCKET

Steve Gruebel
Defendant's Attorney

DATE 3-1-01

THE DEFENDANT, heretofore convicted and sentenced in Count One as set out in Judgment and Commitment Order entered July 17, 1990, and released to a three year term of supervised release on April 2, 1999:

Admitted guilt to violation of condition eight of the term of supervision as to Count One.

<u>Condition Number</u>	<u>Nature of Violation</u>
Eight	Use and possession of controlled substance

As pronounced on February 22, 2001, the defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS 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 28th day of February, 2001.


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

Defendant's Soc. Sec. No.: 440-56-8728
Defendant's Date of Birth: 03/03/1953
Defendant's USM No.: 06408-062
Defendant's Residence and Mailing Address: 3101 S. 130th E. Place, Tulsa, OK 74134

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

By 
Phil Lombardi, Clerk
Deputy

IMPRISONMENT

The Court finds that the instant offense occurred after November 1, 1987. Consistent with the 10th Circuit decision in U.S. v. Lee, Chapter Seven provisions are not mandatory, but the Court has considered them in arriving at this sentence.

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of fourteen (14) months. Supervised release will not be reimposed in case 90-CR-066-001-C. However, Walton will remain on supervised release in case number 90-CR-051-001-C. This term will toll while incarcerated, to recommence upon release. The defendant is to report to the probation officer in the district of release within 72 hours of discharge.

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

Before 9 a.m. on April 16, 2001.

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

STATEMENT OF REASONS

Pursuant to 18 U.S.C. § 3553 (c), the Court states the reasons for imposition of the sentence:

Sentenced is imposed based on earlier revocation of supervised release for similar conduct.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

MAY 24 2001

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

JUDGMENT AND ORDER ON
REVOCATION OF SUPERVISED RELEASE
(For Offenses Committed On or After November 1, 1987)

Antonio Dewayne Wilson

Case Number: 93-CR-128-001-B

Steve Gruebel
Defendant's Attorney

ENTERED ON DOCKET
MAY 24 2001
DATE

THE DEFENDANT, heretofore convicted and sentenced in Count Two as set out in Judgment and Commitment Order entered March 4, 1994, and released to the three year term of supervised release November 19, 1998:

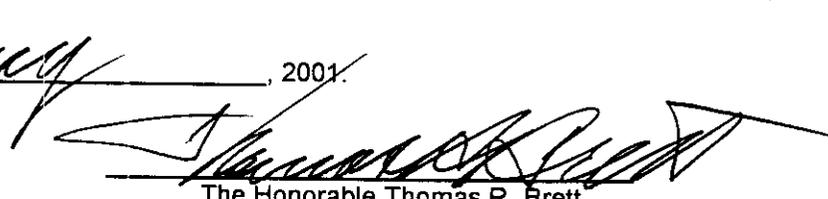
Admitted guilt to violation of mandatory condition, condition number seven and special condition of the term of supervision as to Count Two.

<u>Condition Number</u>	<u>Nature of Violation</u>
Mandatory Condition	Violation of state law
Condition # Seven	Drug use
Special Condition	Home confinement electronic monitoring

As pronounced on May 18, 2001, 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 FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Signed this the 23rd day of May, 2001.



The Honorable Thomas R. Brett
Senior U.S. District Judge

Defendant's Soc. Sec. No.: 441-82-0566
Defendant's Date of Birth: 07/16/1973
Defendant's USM No.: 07191-062
Defendant's Residence and Mailing Address: David L. Moss Correctional Center, 300 North 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

IMPRISONMENT

The Court finds that the instant offense occurred after November 1, 1987. Consistent with the 10th Circuit decision in U.S. v. Lee, Chapter Seven provisions are not mandatory, but the Court has considered them in arriving at this sentence.

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

To run consecutive to Tulsa County Case CF-2000-6146.

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

Place in a jail-type facility - and be provided appropriate substance abuse therapy and training.

RETURN

I have executed this Judgment as follows:

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

United States Marshal

By: _____
Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of eighteen (18) months.

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 as soon as possible, but in no event later than 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.

STANDARD CONDITIONS OF SUPERVISION

1. You will not leave the judicial district without permission of the Court or probation officer.
2. You will report to the probation officer and submit a truthful and complete written report within the first five days of each month.
3. You will answer truthfully all inquiries by the probation officer, and follow the instructions of the probation officer.
4. You will successfully participate in cognitive/life skills training or similar programming as directed by the probation officer.
5. You will support your dependents and meet other family responsibilities, to include complying with any court order or order of administrative process requiring the payment of child support.
6. You will work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
7. You will notify the probation officer at least ten days prior to any change of residence or employment.
8. You will not frequent places where controlled substances are illegally sold, or administered; you shall refrain from excessive use of alcohol and will not purchase, possess, use, distribute or administer any controlled substance or paraphernalia related to such substances, except as prescribed by a physician.
9. You will submit to urinalysis or other forms of testing to determine illicit drug use as directed by the probation officer; if directed by the probation officer, you will successfully participate in a program of testing and treatment (to include inpatient) for substance abuse until released from the program by the probation officer.
10. You will not associate with any persons engaged in criminal activity, and will not associate with any person convicted of a crime unless granted permission to do so by the probation officer.
11. You will permit a probation officer to visit at any time at your home, employment or elsewhere and will permit confiscation of any contraband observed in plain view by the probation officer.
12. You will provide access to all personal and business financial information as requested by the probation officer; and you shall, if directed by the probation officer, not apply for or acquire any credit unless permitted in advance by the probation officer.
13. You will notify the probation officer within seventy-two hours of being arrested, questioned, or upon having any contact with a law enforcement officer.
14. You will not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the Court.
15. As directed by the probation officer, you will notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and permit the probation officer to make such notifications and to confirm your compliance with such notification requirements.
16. You will not possess a firearm, destructive device, or other dangerous weapon.

ADDITIONAL CONDITIONS:

1. **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 acknowledgment shall be provided to the U. S. Probation Office immediately upon taking residency.**

CRIMINAL MONETARY PENALTIES

The defendant shall pay a fine in the amount of \$380.00 as to Count Two.

Payments for any unpaid balances shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Any unpaid criminal monetary penalty 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.

Unless the interest was waived at the original sentencing, the defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

If the fine and/or restitution is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614. The defendant shall notify the Court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine.

All criminal monetary penalty payments are to be made to the United States District Court Clerk, 333 West 4th Street, Rm. 411, Tulsa, Oklahoma 74103, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

STATEMENT OF REASONS

Pursuant to 18 U.S.C. § 3553 (c), the Court states the reasons for imposition of the sentence:

Based on offender's absconding from supervision and his new criminal conduct while a fugitive from justice.

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

UNITED STATES OF AMERICA

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

V.

Case Number: 00-CR-083-001-J ✓

Jeremy Jason Palmer

Edward G. Lindsey
Defendant's Attorney

FILED

THE DEFENDANT:

ENTERED ON DOCKET
DATE **JUN 01 2001**

JUN 01 2001 *PL*

Phil Lombardi, Clerk
U.S. DISTRICT COURT

Pleaded guilty to Count One of the Information on March 16, 2001.

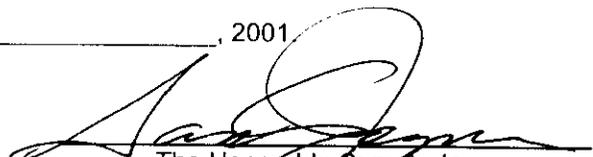
Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

<u>Title and Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count</u>
18 USC 2113(b) ¶2	Theft of Bank Funds	04-13-99	1

As pronounced on May 30, 2001, 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 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 1 day of June, 2001


The Honorable Sam A. Joyner
U.S. Magistrate Judge

Defendant's Soc. Sec. No.: 447-70-7090
Defendant's Date of Birth: February 4, 1975
Defendant's USM No.: 08855-062
Defendant's Residence and Mailing Address: 5737 S Quincy, Tulsa, OK 74105

U.S. 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 *Andra Collier*
Deputy

12

PROBATION

The Defendant is hereby placed on probation for a term of twenty-four (24) months.

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 supervision that the defendant pay any such fine, assessments, costs, and restitution that remain unpaid at the commencement of the term of supervision.

STANDARD CONDITIONS OF PROBATION

1. You will not leave the judicial district without permission of the Court or probation officer.
2. You will report to the probation officer and submit a truthful and complete written report within the first five days of each month.
3. You will answer truthfully all inquiries by the probation officer, and follow the instructions of the probation officer.
4. You will successfully participate in cognitive/life skills training or similar programming as directed by the probation officer.
5. You will support your dependents and meet other family responsibilities, to include complying with any court order or order of administrative process requiring the payment of child support.
6. You will work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
7. You will notify the probation officer at least ten days prior to any change of residence or employment.
8. You will not frequent places where controlled substances are illegally sold, or administered; you shall refrain from excessive use of alcohol and will not purchase, possess, use, distribute or administer any controlled substance or paraphernalia related to such substances, except as prescribed by a physician.
9. You will submit to urinalysis or other forms of testing to determine illicit drug use as directed by the probation officer; if directed by the probation officer, you will successfully participate in a program of testing and treatment (to include inpatient) for substance abuse until released from the program by the probation officer.
10. You will not associate with any persons engaged in criminal activity, and will not associate with any person convicted of a crime unless granted permission to do so by the probation officer.
11. You will permit a probation officer to visit at any time at your home, employment or elsewhere and will permit confiscation of any contraband observed in plain view by the probation officer.
12. You will provide access to all personal and business financial information as requested by the probation officer; and you shall, if directed by the probation officer, not apply for or acquire any credit unless permitted in advance by the probation officer.
13. You will notify the probation officer within seventy-two hours of being arrested, questioned, or upon having any contact with a law enforcement officer.
14. You will not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the Court.
15. As directed by the probation officer, you will notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and permit the probation officer to make such notifications and to confirm your compliance with such notification requirements.
16. You will not possess a firearm, destructive device, or other dangerous weapon.

ADDITIONAL CONDITIONS:

1. 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 acknowledgment shall be provided to the U. S. Probation Office immediately upon taking residency.
2. The defendant shall abide by the "Special Financial Conditions" enumerated in General Order Number 99-12, filed with the Clerk of the Court on July 13, 1999.
3. The defendant shall perform forty (40) hours of community service, as directed by the Probation Office.

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties; payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine; (4) cost of prosecution; (5) interest; (6) penalties.

ASSESSMENT	RESTITUTION	FINE
\$25.00	\$0.00	\$300.00

ASSESSMENT

It is ordered that the defendant shall pay to the United States a special assessment of \$25.00 for Count One of the Information, which shall be due immediately.

FINE

The defendant shall pay a fine of \$300.00 for Count One of the Information. This fine shall be paid in full immediately. Any amount not paid immediately shall be paid during the period of Probation.

Unless the interest is waived, the defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

If the fine and/or restitution is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614. The defendant shall notify the Court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

All criminal monetary penalty payments are to be made to the United States District Court Clerk, 333 West 4th Street, Rm. 411, Tulsa, Oklahoma 74103, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

STATEMENT OF REASONS

The Court adopts the factual findings and guidelines application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	3	
Criminal History Category:	I	
Imprisonment Range:	0 to 6 months	Count 1
Supervised Release Range:	1 to years	Count 1
Fine Range:	\$100 to \$5,000	Count 1

Total amount of Restitution: \$ Not Applicable

The sentence is within the guideline range, that range does not exceed 24 months, and the sentence is imposed for the following reason: The nature of the offense and the defendant's criminal record.

LH

FILED

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

JUN 13 2001

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

**JUDGMENT AND ORDER ON
REVOCAION OF SUPERVISED RELEASE**
(For Offenses Committed On or After November 1, 1987)

Gary Lynn Troutt

Case Number: 93-CR-036-001-B ✓

ENTERED ON DOCKET

Michele Lacey
Defendant's Attorney

DATE 6-13-01

THE DEFENDANT, heretofore convicted and sentenced in Count One as set out in Judgment and Commitment Order entered August 27, 1993, and released to the two year term* of supervised release January 16, 1998:

*On December 17, 1999, the term of supervised release was extended one year for a full term of three years.

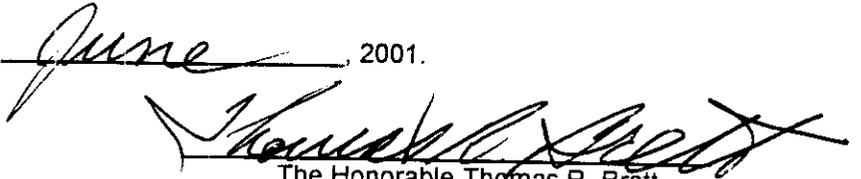
Admitted guilt to violation of conditions two, six, fourteen and a special condition of the term of supervision as to Count One.

<u>Condition Number</u>	<u>Nature of Violation</u>
Two	Failure to report as directed
Six	Failure to notify probation officer of change of address
Fourteen	Failure to submit to urine testing
Special	Failure to participate in drug abuse counseling

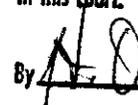
As pronounced on June 11, 2001, the defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS 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 13th day of June, 2001.


The Honorable Thomas R. Brett
Senior U.S. District Judge

Defendant's Soc. Sec. No.: 500-82-8059
Defendant's Date of Birth: 11/18/1963
Defendant's USM No.: 07074-062
Defendant's Residence and Mailing Address: David L. Moss Justice Center, 300 N. 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.
By  Phil Lombardi, Clerk
Deputy

IMPRISONMENT

The Court finds that the instant offense occurred after November 1, 1987. Consistent with the 10th Circuit decision in U.S. v. Lee, Chapter Seven provisions are not mandatory, but the Court has considered them in arriving at this sentence.

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

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

The defendant is to be imprisoned in a jail-like facility.

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

RETURN

I have executed this Judgment as follows:

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

United States Marshal

By: _____
Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of twenty-eight (28) months.

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 as soon as possible, but in no event later than 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.

STANDARD CONDITIONS OF SUPERVISION

1. You will not leave the judicial district without permission of the Court or probation officer.
2. You will report to the probation officer and submit a truthful and complete written report within the first five days of each month.
3. You will answer truthfully all inquiries by the probation officer, and follow the instructions of the probation officer.
4. You will successfully participate in cognitive/life skills training or similar programming as directed by the probation officer.
5. You will support your dependents and meet other family responsibilities, to include complying with any court order or order of administrative process requiring the payment of child support.
6. You will work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
7. You will notify the probation officer at least ten days prior to any change of residence or employment.
8. You will not frequent places where controlled substances are illegally sold, or administered; you shall refrain from excessive use of alcohol and will not purchase, possess, use, distribute or administer any controlled substance or paraphernalia related to such substances, except as prescribed by a physician.
9. You will submit to urinalysis or other forms of testing to determine illicit drug use as directed by the probation officer; if directed by the probation officer, you will successfully participate in a program of testing and treatment (to include inpatient) for substance abuse until released from the program by the probation officer.
10. You will not associate with any persons engaged in criminal activity, and will not associate with any person convicted of a crime unless granted permission to do so by the probation officer.
11. You will permit a probation officer to visit at any time at your home, employment or elsewhere and will permit confiscation of any contraband observed in plain view by the probation officer.
12. You will provide access to all personal and business financial information as requested by the probation officer; and you shall, if directed by the probation officer, not apply for or acquire any credit unless permitted in advance by the probation officer.
13. You will notify the probation officer within seventy-two hours of being arrested, questioned, or upon having any contact with a law enforcement officer.
14. You will not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the Court.
15. As directed by the probation officer, you will notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and permit the probation officer to make such notifications and to confirm your compliance with such notification requirements.
16. You will not possess a firearm, destructive device, or other dangerous weapon.

ADDITIONAL CONDITIONS:

1. 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 acknowledgment shall be provided to the U. S. Probation Office immediately upon taking residency.

STATEMENT OF REASONS

Pursuant to 18 U.S.C. § 3553 (c), the Court states the reasons for imposition of the sentence:

Sentence imposed based on history of repeated violations of supervised release

JUN 27 2001 *1/16*

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

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

**JUDGMENT AND ORDER ON
REVOCATION OF SUPERVISED RELEASE**
(For Offenses Committed On or After November 1, 1987)

V.

DAVID WAYNE COLE

Case Number: 91-CR-055-001-B

ENTERED ON DOCKET

Rick Couch
Defendant's Attorney

DATE 6-27-01

THE DEFENDANT, heretofore convicted and sentenced in Counts 1, 2 and 3 as set out in the Judgment and Commitment Order entered August 22, 1991, and released to a four (4) year term of supervised release September 29, 2000:

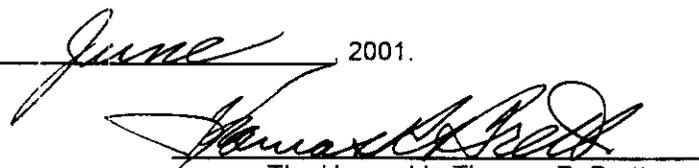
Admitted guilt to violation of the Standard Conditions of the term of supervision as to counts 1, 2 and 3.

<u>Condition Number</u>	<u>Nature of Violation</u>
Standard Condition 7	Tested Positive for use of cocaine and marijuana

As pronounced on June 20, 2001, 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 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 25th day of June, 2001.

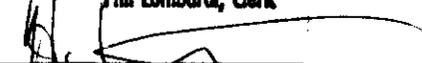


The Honorable Thomas R. Brett
Senior U.S. District Judge

Defendant's Soc. Sec. No.: 445-64-1883
Defendant's Date of Birth: 12-12-63
Defendant's USM No.: 06652-062
Defendant's Residence and Mailing Address: 2140 E. Oklahoma Street, Tulsa, OK 74116

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

IMPRISONMENT

The Court finds that the instant offense occurred after November 1, 1987. Consistent with the 10th Circuit decision in U.S. v. Lee, Chapter Seven provisions are not mandatory, but the Court has considered them in arriving at this sentence.

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of nine (9) months.

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

At or before 1:00 p.m. on August 1, 2001.

RETURN

I have executed this Judgment as follows:

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

United States Marshal

By: _____
Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of thirty-nine (39) months on count 1 and twenty-seven (27) months on counts 2 and 3, said terms to run concurrently, each with the other.

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

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event later than 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.

STANDARD CONDITIONS OF SUPERVISION

1. You will not leave the judicial district without permission of the Court or probation officer.
2. You will report to the probation officer and submit a truthful and complete written report within the first five days of each month.
3. You will answer truthfully all inquiries by the probation officer, and follow the instructions of the probation officer.
4. You will successfully participate in cognitive/life skills training or similar programming as directed by the probation officer.
5. You will support your dependents and meet other family responsibilities, to include complying with any court order or order of administrative process requiring the payment of child support.
6. You will work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
7. You will notify the probation officer at least ten days prior to any change of residence or employment.
8. You will not frequent places where controlled substances are illegally sold, or administered; you shall refrain from excessive use of alcohol and will not purchase, possess, use, distribute or administer any controlled substance or paraphernalia related to such substances, except as prescribed by a physician.
9. You will submit to urinalysis or other forms of testing to determine illicit drug use as directed by the probation officer; if directed by the probation officer, you will successfully participate in a program of testing and treatment (to include inpatient) for substance abuse until released from the program by the probation officer.
10. You will not associate with any persons engaged in criminal activity, and will not associate with any person convicted of a crime unless granted permission to do so by the probation officer.
11. You will permit a probation officer to visit at any time at your home, employment or elsewhere and will permit confiscation of any contraband observed in plain view by the probation officer.
12. You will provide access to all personal and business financial information as requested by the probation officer; and you shall, if directed by the probation officer, not apply for or acquire any credit unless permitted in advance by the probation officer.
13. You will notify the probation officer within seventy-two hours of being arrested, questioned, or upon having any contact with a law enforcement officer.
14. You will not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the Court.
15. As directed by the probation officer, you will notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and permit the probation officer to make such notifications and to confirm your compliance with such notification requirements.
16. You will not possess a firearm, destructive device, or other dangerous weapon.

ADDITIONAL CONDITIONS:

1. The defendant shall be placed on home detention to include electronic monitoring at the discretion of the U. S. Probation Office 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.
2. 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 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 acknowledgment shall be provided to the U. S. Probation Office immediately upon taking residency.

CRIMINAL MONETARY PENALTIES

The defendant shall pay restitution in the amount of \$2,943.00 as to Counts 1, 2 and 3 to the payees as ordered in the Judgment entered August 22, 1991.

Payments for any unpaid balances shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Any unpaid criminal monetary penalty 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.

Unless the interest was waived at the original sentencing, the defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

If the fine and/or restitution is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614. The defendant shall notify the Court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay the fine.

All criminal monetary penalty payments are to be made to the United States District Court Clerk, 333 West 4th Street, Rm. 411, Tulsa, Oklahoma 74103, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

STATEMENT OF REASONS

Pursuant to 18 U.S.C. § 3553 (c), the Court states the reasons for imposition of the sentence:

The sentence is imposed based upon the nature of the violations and the Defendant's failure to successfully complete the rehabilitation programs as ordered by the Court.

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

FILED

AUG 27 2001

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 REGGIE LEROY,)
)
 Defendant.)

No. 89-CR-91
01-CV-427-C

ENTERED ON DOCKET

DATE AUG 29 2001

JUDGMENT

This matter came before the Court for consideration of defendant Reggie Leroy's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Having considered the issues and rendering a decision, as set forth in the order filed herein on August 27, 2001, the Court hereby finds that judgment should be entered in favor of the United States of America.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that judgment is entered for plaintiff, United States of America, and against defendant Reggie Leroy on defendant's request for relief under 28 U.S.C. § 2255.

IT IS SO ORDERED this 27th day of August, 2001.


HONORABLE H. DALE COOK
Senior U.S. District Judge

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

F I L E D

OCT 18 2001

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 PAUL R. JASTRZEMBSKI,)
)
 Defendant.)

No. 90-CR-74-C
01-CV-426-C

JUDGMENT

This matter came before the Court for consideration of defendant Paul Jastrzembski's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Having considered the issues and rendering a decision, as set forth in the order filed herein on October 16, 2001, the Court hereby finds that judgment should be entered in favor of the United States of America.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that judgment is entered for plaintiff, United States of America, and against defendant Paul Jastrzembski on defendant's request for relief under 28 U.S.C. § 2255.

IT IS SO ORDERED this 18th day of October, 2001.


HONORABLE H. DALE COOK
Senior U.S. District Judge

212

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)
(Resentencing pursuant to 28 U.S.C. § 2255)

Case Number: 91-CR-152-001-E ✓

Stephen Greubel
Defendant's Attorney

FILED

ENTERED ON DOCKET
OCT 29 2001

Dewayne Arterberry

THE DEFENDANT:

Pleaded guilty to Count One of the Indictment on May 1, 1992.

DATE 10/29/01 Phil Lombardi, Clerk
U.S. DISTRICT COURT

Accordingly, the defendant is adjudged guilty of such count, involving the following offense:

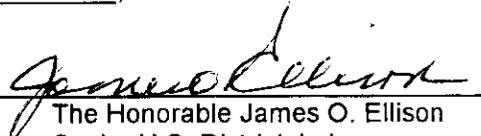
<u>Title and Section</u>	<u>Nature of Offense</u>	<u>Date Offense</u>	
		<u>Concluded</u>	<u>Count</u>
18 USC 922(g)(1)	Possession of a Firearm (AFCF)	03-01-91	1

On December 10, 1993, the defendant was sentenced to the custody of the U.S. Bureau of Prisons for a term of 180 months and a five-year term of supervised release. On October 17, 2001, the district court granted defendant's § 2255 motion to correct sentence, and ordered that the defendant be resentenced. As pronounced on October 29, 2001, the defendant is resentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The Court notes the \$50 special assessment imposed on December 10, 1993, has been paid in full, therefore no assessment is imposed upon resentencing.

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 29TH day of October, 2001.


The Honorable James O. Ellison
Senior U.S. District Judge

Defendant's Soc. Sec. No.: 441-72-6546
Defendant's Date of Birth: March 9, 1962
Defendant's USM No.: 06811-062
Defendant's Residence Address: FCI - Memphis,
Defendant's Mailing Address: 7617 East 19th St., #12, Tulsa, Oklahoma

IMPRISONMENT

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

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 as soon as possible, but in no event later than 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.

STANDARD CONDITIONS OF SUPERVISION

- 1 You will not leave the judicial district without permission of the Court or probation officer.
- 2 You will report to the probation officer and submit a truthful and complete written report within the first five days of each month.
- 3 You will answer truthfully all inquiries by the probation officer, and follow the instructions of the probation officer.
- 4 You will successfully participate in cognitive/life skills training or similar programming as directed by the probation officer.
- 5 You will support your dependents and meet other family responsibilities, to include complying with any court order or order of administrative process requiring the payment of child support.
- 6 You will work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 7 You will notify the probation officer at least ten days prior to any change of residence or employment.
- 8 You will not frequent places where controlled substances are illegally sold, or administered; you shall refrain from excessive use of alcohol and will not purchase, possess, use, distribute or administer any controlled substance or paraphernalia related to such substances, except as prescribed by a physician.
- 9 You will submit to urinalysis or other forms of testing to determine illicit drug use as directed by the probation officer; if directed by the probation officer, you will successfully participate in a program of testing and treatment (to include inpatient) for substance abuse until released from the program by the probation officer.
- 10 You will not associate with any persons engaged in criminal activity, and will not associate with any person convicted of a crime unless granted permission to do so by the probation officer.
- 11 You will permit a probation officer to visit at any time at your home, employment or elsewhere and will permit confiscation of any contraband observed in plain view by the probation officer.
- 12 You will provide access to all personal and business financial information as requested by the probation officer; and you shall, if directed by the probation officer, not apply for or acquire any credit unless permitted in advance by the probation officer.
- 13 You will notify the probation officer within seventy-two hours of being arrested, questioned, or upon having any contact with a law enforcement officer.
- 14 You will not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the Court.
- 15 As directed by the probation officer, you will notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and permit the probation officer to make such notifications and to confirm your compliance with such notification requirements.
- 16 You will not possess a firearm, destructive device, or other dangerous weapon.

ADDITIONAL CONDITIONS:

1. 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 acknowledgment shall be provided to the U. S. Probation Office immediately upon taking residency.

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties; payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine; (4) cost of prosecution; (5) interest; (6) penalties.

ASSESSMENT

\$0.00

RESTITUTION

\$0.00

FINE

\$0.00

ASSESSMENT

It is ordered that the defendant shall pay to the United States a special assessment of \$0 for Count, which shall be due immediately

Unless the interest is waived, the defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

If the fine and/or restitution is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614. The defendant shall notify the Court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

All criminal monetary penalty payments are to be made to the United States District Court Clerk, 333 West 4th Street, Rm. 411, Tulsa, Oklahoma 74103, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

STATEMENT OF REASONS

The Court adopts the factual findings and guidelines application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	12	
Criminal History Category:	II (Two)	
Imprisonment Range:	12 to 18 months	Count 1
Supervised Release Range:	2 to 3 years	Count 1
Fine Range:	\$3,000 to \$30,000	Count 1

Total amount of Restitution: \$ Not Applicable

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 sentence is imposed for the following reason: The Court finds no reason to depart from the sentence called for application of the guidelines.

18

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 05 2002

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA)
Plaintiff)
VS.)
GEORGE MICHAEL MALONE)
Defendant)

Case Number 91-CR-106-B ✓

ENTERED ON DOCKET

DATE 2-5-02

ORDER TO REDUCE SENTENCE PURSUANT TO 18 U.S.C. § 3582(c)(2)

Malone comes before the Court on February 5, 2002, pursuant to a Motion for a Reduction in Sentence filed by the defendant pursuant to 18 U.S.C. § 3582(c)(2). In a previous Order issued in this case, the Court concluded a four-level enhancement on Count One, Armed Bank Robbery, under the provisions of USSG §2B3.1(b)(2)(A)-(F) was in error. At the time the defendant was sentenced on that count, he was also sentenced in Count Two for a violation of 18 U.S.C. § 924(c)(1). The guideline and application notes applicable to Count Two state that such an increase in the offense level applicable to Count One should not have been made. Amendment 599 effective November 1, 2000, clarifies that guideline and makes it clear that a reduction in the offense level is appropriate under that Amendment and USSG §1B1.10, Reduction in Term of Imprisonment as a Result of Amended Guideline Range.

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 [Signature]
Deputy

The Court structures this specific reduction to be consistent with the sentence imposed February 14, 1992. His sentence on Count One was 120 months, a sentence in the low-middle of the applicable guideline range of 110 to 137 months. Consistent with the USSG §2B3.1, the guideline applicable to Count One, the correct offense level is 24. Based on his Criminal History Category IV, a revised offense level of 24, the corresponding guideline range of imprisonment is 77 to 96 months. Within that range, the Court imposes a sentence of 84 months

Therefore, the Court orders that the term of imprisonment in Count One be reduced from 120 months to 84 months. All of the other terms and conditions of these sentences shall remain the same. An Amended Judgment for this case shall be issued to reflect this Court's findings and Orders.

IT IS SO ORDERED this 5th day of February 2002.


Thomas R. Brett
United States District Judge

2-5-02
Date Signed

FILED

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

FEB 11 2002

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA

**AMENDED
JUDGMENT IN A CRIMINAL CASE**

V.

(Reduction in Sentence Pursuant to 18 U.S.C. § 3582(c)(2), and USSG §1B1.10)

George Michael Malone

Case Number: 91-CR-106-001-B

Charles Hack
Defendant's Attorney at sentencing

Berry Derryberry
Defendant's Attorney at re-sentencing

THE DEFENDANT:

ENTERED ON DOCKET

Convicted by jury verdict on Counts One and Two on November 19, 1991.

DATE 2-11-02

Accordingly, the defendant is adjudged guilty of such counts, involving the following offenses:

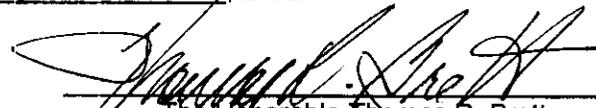
<u>Title and Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count</u>
18 USC 2113(a) and (d)	Armed Bank Robbery	07-19-1991	One
18 USC 924(c)(1)	Carrying a Firearm During the Commission of a Crime of Violence	07-19-1991	Two

The defendant was originally sentenced on February 14, 1992, pursuant to the Sentencing Reform Act of 1984.

As pronounced on February 5, 2002, the defendant was re-sentenced and the term of imprisonment reduced pursuant to 18 U.S.C. § 3582(c)(2), and USSG §1B1.10), and as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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

Signed this the 8th day of Feb., 2002.


The Honorable Thomas R. Brett
Senior U.S. District Judge

Defendant's Soc. Sec. No.: 441-42-0314
Defendant's Date of Birth: 08-21-1940
Defendant's USM No.: 095131-042
Defendant's Residence and Mailing Address: El Reno FCI, El Reno, Oklahoma

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

Deputy

IMPRISONMENT

Pursuant to this Court's previous findings issued in an Order dated January 15, 2002, the defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 144 months. This sentence is comprised of 84 months on Count One (a reduction upon re-sentencing) and 60 months on Count Two. The sentence on Count Two shall run consecutive to the sentence imposed in Count One.

The Court makes the following recommendations to the Bureau of Prisons: None.

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

RETURN

I have executed this Judgment as follows:

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

United States Marshal

By: _____
Deputy Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of three (5) years. This includes a five-year term of supervised release on Count One and a three-year term of supervised release on Count Two. The terms shall 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. The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

1. The defendant shall report in person to the Probation Office in the district to which the defendant is released as soon as possible, but in no event later than 72 hours of release from the custody of the Bureau of Prisons.
2. The defendant shall not possess a firearm or destructive device.
3. The defendant shall pay restitution in the amount of \$58,759.65, and any balance remaining and owing at the end of the period of incarceration shall be paid while under supervised release as noted on page four of this Judgment.
4. The defendant is prohibited from engaging in the employment of or working for a financial institution unless approved by the U.S. Probation Office.

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without permission of the Court or probation officer.
2. The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
3. The defendant shall answer truthfully all inquiries by the probation officer, and follow the instructions of the probation officer.
4. The defendant shall support his or her dependents and meet other family responsibilities.
5. The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
6. The defendant shall notify the probation officer within 72 hours of any change of residence or employment.
7. The defendant shall refrain from excessive use of alcohol and will not purchase, possess, use, distribute or administer any controlled substance or paraphernalia related to such substances, except as prescribed by a physician.
8. The defendant shall not frequent places where controlled substances are illegally sold, or administered.
9. The defendant shall not associate with any persons engaged in criminal activity, and will not associate with any person convicted of a crime unless granted permission to do so by the probation officer.
10. The defendant shall permit a probation officer to visit at any time at your home, employment or elsewhere and will 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, questioned, or upon having any contact with a law enforcement officer.
12. The defendant shall not enter into any agreement to act as an informer or 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 your criminal record or personal history or characteristics, and permit the probation officer to make such notifications and to confirm your compliance with such notification requirements.
14. The defendant shall submit to urinalysis or other forms of testing to determine illicit drug use as directed by the probation officer; if directed by the probation officer, the defendant shall successfully participate in a program of testing and treatment (to include inpatient) for substance abuse until released from the program by the probation officer.

RESTITUTION AND FORFEITURE

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

ASSESSMENT	RESTITUTION	FINE
\$100.00 (\$50 per count)	\$58,759.65	\$0.00

ASSESSMENT

It is ordered that the defendant shall pay to the United States a special assessment of \$50 for each of Counts One and Two of the Indictment, which shall be due immediately.

RESTITUTION

The defendant shall make restitution in the total amount of \$58,759.65 to Cimarron Savings and Loan Association, P.O. Box 1649, Muskogee, Oklahoma, 74402

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 in installments as directed by the U.S. Probation Officer. The defendant shall notify the Court and the Attorney General of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution.

If a victim has received compensation from insurance or any other source with respect to a loss, restitution shall be paid to the person who provided or is obligated to provide the compensation, but all restitution of victims shall be paid to the victims before any restitution is paid to such a provider of compensation.

Unless the interest is waived, the defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

If the fine and/or restitution is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614. The defendant shall notify the Court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

All criminal monetary penalty payments are to be made to the United States District Court Clerk, 333 West 4th Street, Rm. 411, Tulsa, Oklahoma 74103, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

STATEMENT OF REASONS

The Court adopts the factual findings and guidelines application in the presentence report.

Guideline Range Determined by the Court:

Total Offense Level:	24 (Count One only)
Criminal History Category:	IV
Imprisonment Range:	77 to 96 months (Count One) 60 months mandatory consecutive to any other sentence)
Supervised Release Range:	3 to 5 years (Count One) 2 to 3 years (Count Two)
Fine Range:	\$10,000 to \$100,000

Total amount of Restitution: \$58,759.65

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

The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons:

The middle of the guideline range of 84 months in Count One, with the consecutive sentence of 60 months in Count Two, addresses the goal of punishment for this defendant, considering his prior criminal history and his refusal to admit he committed the instant offense.

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

FILED

NOV 06 2008

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JOHN BALLARD,)
)
Defendant.)

Case No. 86-CR-154-TCK

ENTERED ON DOCKET

DATE 11/6/08

OPINION AND ORDER

On July 17, 2008, Defendant John Ballard a prisoner presently in custody at the Sacramento County Main Jail, located in Sacramento, California, filed a "petition for writ of error *audita querela* pursuant to Title 28 USC § 1651 and motion to appoint counsel" (Dk. # 44). For the reasons discussed below, the Court finds that the petition for writ of error *audita querela* and motion for appointment of counsel should be denied.

First, the Court exercises its discretion to deny Defendant's motion for appointment of counsel. There is no constitutional right to counsel beyond the direct appeal of a conviction. See Swazo v. Wyoming Department of Corrections, 23 F.3d 332 (10th Cir. 1994).

The docket sheet for this case reveals that on February 4, 1987, or more than twenty (20) years ago, Defendant was convicted following his plea of guilty to Interstate Transportation of Visual Depiction of Minor Engaged in Sexually Explicit Conduct, in violation of 18 U.S.C. § 2252. On March 20, 1987, Defendant was sentenced to five (5) years probation. Judgment (Dkt. # 13) was entered on March 20, 1987. Defendant did not appeal. More than fifteen (15) years later, on September 9, 2002, Defendant filed a motion to withdraw his plea of guilty (Dkt. # 17). By Order

c/Def. USA
USPO

filed April 18, 2003 (Dkt. # 23), the Court denied Defendant's motion to withdraw guilty plea. Defendant did not appeal that ruling.

More recently, on November 29, 2007, Defendant filed a petition for writ of error *coram nobis* (Dkt. # 30). In that petition, Defendant challenged his conviction on numerous legal grounds. The Court denied the petition on December 7, 2007. See Dkt. # 31. Petitioner appealed. On June 11, 2008, the Tenth Circuit Court of Appeals affirmed this Court's decision. See Dkt. # 42; United States v. Ballard, 2008 WL 2357748 (10th Cir. June 11, 2008) (unpublished). The appellate court examined Defendant's legal challenges to his conviction and determined that he had "not demonstrated that his underlying conviction amounts to a miscarriage of justice, nor that he acted diligently in bringing this *coram nobis* proceeding." Id.

Despite those rulings, Defendant filed the instant "petition for writ of error *audita querela*" and again requests that the judgment and sentence entered against him in this case more than twenty (20) years ago be vacated or that this Court direct "the State of California to relieve Mr. Ballard from the duty to register as a sex offender as a consequence to this conviction." See Dkt. # 44. In requesting issuance of a writ of error *audita querela*, Defendant concedes that the judgment entered by this Court was correct at the time it was rendered. However, he argues that the judgment has been "rendered infirm by matters arising after its rendition and is not redressable pursuant to another post-conviction remedy." The post-conviction matters allegedly rendering his conviction infirm are the requirements of California state law and possibly federal law, the Sex Offender Registration and Notification Act ("SORNA"), 42 U.S.C. §§ 16901-16962, requiring Defendant to register as a sex offender based on the conviction entered in this case. As a result, Defendant contends that the writ of *audita querela* provides the proper remedy for the relief he seeks under the facts of this case.

In United States v. Torres, 282 F.3d 1241 (10th Cir. 2002), the Tenth Circuit Court of Appeals discussed the limited applications of and distinctions between writs of error *coram nobis* and *audita querela*, as follows:

Writs of *audita querela* and *coram nobis* “are similar, but not identical.” United States v. Reyes, 945 F.2d 862, 863 n. 1 (5th Cir.1991). Usually, a writ of *coram nobis* is used “to attack a judgment that was infirm [at the time it issued], for reasons that later came to light.” Id. By contrast, a writ of *audita querela* is used to challenge “a judgment that was correct at the time rendered but which is rendered infirm by matters which arise after its rendition.” Id. Rule 60(b) of the Federal Rules of Civil Procedure formally abolished both writs. United States v. Beggerly, 524 U.S. 38, 45, 118 S.Ct. 1862, 141 L.Ed.2d 32 (1998); Fed.R.Civ.P. 60(b) (both stating that writs of *coram nobis* and *audita querela* were abolished by Rule 60(b)). However, the Supreme Court held in United States v. Morgan, 346 U.S. 502, 74 S.Ct. 247, 98 L.Ed. 248 (1954), that the writ of *coram nobis* could still be pursued in the criminal contexts under the All Writs Act. At least four of our sister circuits have questioned whether *audita querela* may also be used “to vacate an otherwise final criminal conviction” under the All Writs Act, but have assumed, “without deciding, that in some set of circumstances *audita querela* might appropriately afford post-conviction relief to a criminal defendant.” Reyes, 945 F.2d at 865 (collecting cases).

Id. at 1245 n.6. It remains unclear whether the writ of *audita querela* may issue to vacate an otherwise valid criminal conviction solely on equitable grounds. See United States v. Fonseca-Martinez, 36 F.3d 62 (9th Cir. 1994). Several federal district courts have granted writs of *audita querela* to vacate federal criminal convictions solely on equitable grounds -- that is, not based on any error in the conviction -- in order to protect defendants from adverse collateral consequences. See e.g., United States v. Khalaf, 116 F.Supp.2d 210, 217 (D.Mass. 1999); United States v. Ghebreziabher, 701 F.Supp. 115 (E.D. La. 1988); United States v. Salgado, 692 F.Supp. 1265 (E.D. Wash. 1988). Those cases involved resident aliens and the adverse collateral consequences were immigration-related. Several courts of appeals, however, have ruled that, as a matter of law, the writ of *audita querela* is not available to vacate an otherwise valid conviction for solely equitable reasons. See Doe v. I.N.S., 120 F.3d 200 (9th Cir. 1997); United States v. LaPlante, 57 F.3d 252,

253 (2d Cir. 1995); United States v. Johnson, 962 F.2d 579 (7th Cir. 1992); United States v. Reyes, 945 F.2d 862 (5th Cir. 1991); United States v. Holder, 936 F.2d 1 (1st Cir. 1991); see also United States v. Ayala, 894 F.2d 425 (D.C. Cir. 1990) (strongly indicating that writ not available on solely equitable grounds but ultimately finding it unnecessary to rule on the issue).

In contrast, the Tenth Circuit has described *audita querela* as “essentially equitable” in nature. Oliver v. City of Shattuck ex rel. Versluis, 157 F.2d 150, 153 (10th Cir. 1946). In a thorough opinion discussing the historical bases of *audita querela*, the United States District Court for the District of Utah concluded that decisions from other appellate courts “read[] the historical sources a little too narrowly” in concluding that the writ of *audita querela* had traditionally been available only to remedy a legal defect in or defense to the underlying judgment. Villafranco v. United States, 2006 WL 1049114, *11 (D. Utah 2006) (unpublished).

In this case, the Court finds it unnecessary to determine whether the writ of *audita querela* is available to vacate a legally valid conviction for solely equitable reasons in a case presenting compelling facts. Even if the writ is available, this case does not present sufficient equities to justify the issuance of the writ. Defendant’s concern that he may now face adverse collateral consequences, i.e., being required to register as a sex offender as a result of this conviction, does not entitle him to have the conviction set aside. Numerous courts have held that application of sex offender registry laws to offenders who committed their crimes before the laws were passed is not unconstitutional and does not constitute criminal punishment. See, e.g., Smith v. Doe, 538 U.S. 84, 105-06 (2003); Femedeer v. Haun, 227 F.3d 1244, 1249-53 (10th Cir. 2000); Cutshall v. Sundquist, 193 F.3d 466, 476-77 (6th Cir. 1999); Doe v. Pataki, 120 F.3d 1263 (2d Cir. 1997). Thus, the adverse collateral consequences complained of by Defendant do not render the conviction entered in this case infirm

and do not justify on equitable or legal grounds issuance of a writ of *audita querela*. Defendant's petition for writ of error *audita querela* shall be denied.

ACCORDINGLY, IT IS HEREBY ORDERED that Defendant's petition for writ of error *audita querela* (Dkt. # 44) is **denied**. Defendant's motion for appointment of counsel (Dkt. # 44) is **denied**.

DATED THIS 30th day of October, 2008.

A handwritten signature in black ink, appearing to read "Terence Kern", written in a cursive style.

TERENCE KERN
UNITED STATES DISTRICT JUDGE

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

FILED

NOV 06 2008

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JOHN BALLARD,)
)
Defendant.)

Case No. 86-CR-154-TCK

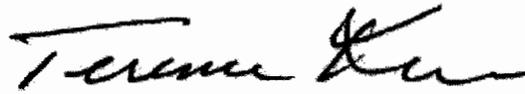
ENTERED ON DOCKET
DATE 11/6/08

JUDGMENT

This matter came before the Court upon Defendant's petition for writ of error *audita querela*. The issues having been duly considered and a decision having been rendered in accordance with the Opinion and Order filed contemporaneously herewith,

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that judgment is hereby entered for Plaintiff and against Defendant.

DATED THIS 30th day of October, 2008.



TERENCE KERN
UNITED STATES DISTRICT JUDGE

c/Def
USA
USPT

51

FILED 51

DEC 13 2010

Phil Lombardi, Clerk
U.S. DISTRICT COURT

EOB: 12/13/10

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 TROY T. COLEMAN,)
)
 Defendant.)

Case No. 90-CR-049-002-TRBV

USM Number: 06337-062

NUNC PRO TUNC RECOMMENDATION
FOR CONCURRENT DESIGNATION

This matter comes before the Court on a request by the defendant for a *nunc pro tunc* designation of a state institution for concurrent service of the instant Federal sentence (Dkt. # 49). The Court, having reviewed the request, finds that the request should be **granted**.

On July 13, 1990, defendant was sentenced to a 60-month term of imprisonment after a finding of guilt for the offense of retaliation against a witness, in violation of 18 U.S.C. § 1513(a)(1). Defendant appeared for sentencing on a summons, as he was previously detained and pending adjudication in Northern Oklahoma case 89-CR-090-003-HDC. Defendant appeared first in case 89-CR-090, jurisdiction having been acquired in December 1989 on a Writ of Habeas Corpus Ad Prosequendum from the State of California, where he was imprisoned for a period of seven years on a probation revocation. Following sentencing in case 90-CR-049, defendant entered a guilty plea in case 89-CR-090, and on September 19, 1990, was sentenced to two concurrent 360-month imprisonment terms for the offenses of conspiracy and possession with intent to distribute controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1). Neither Court stated how the sentences in case 89-CR-090 and 90-CR-049 shall run, thereby resulting in a consecutive sentence and an

50

aggregate imprisonment term of 420 months.¹ See 18 U.S.C. § 3584. The defendant was returned to the custody of the State of California to complete the sentence in San Bernardino County case SCR 44337. Upon completion of the State custody term, defendant was received by the U.S. Bureau of Prisons (BOP) on June 23, 1992, to commence service of the instant imprisonment term and the sentences imposed in case 89-CR-090.

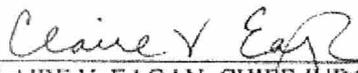
Defendant argues that by virtue of his appearance on a summons, the Court was unaware of the fact he was imprisoned by, and in the primary custody of, the State of California. Because state authorities held primary jurisdiction of defendant, he served the state sentence first, followed by the instant term, and now he is serving the sentences imposed in case 89-CR-090. Upon review of the record and the presentence report prepared in this case, it is evident that the sentencing Court may not have been fully informed of defendant's status and that the sentence would, by law, be applied consecutively to the undischarged California sentence.

For good cause shown, and under authority of Barden v. Keohane, 921 F.2d 476 (3rd Cir. 1990) (holding that the BOP has the authority to designate, *nunc pro tunc*, a state prison as a place of federal confinement such that the inmate may receive credit on his federal sentence for time served in state prison), and BOP Policy Statement § 5160.05(9)(4)(c), the Court recommends, *nunc pro tunc*, that the instant sentence run concurrently with the seven-year term imposed in San Bernardino County, California, case SCR 44337. It is further recommended that the Bureau of Prisons designate a State of California penal facility as the place of confinement of said sentence.

¹ On July 18, 2008, the 360-month sentences imposed in case 89-CR-090 were reduced pursuant to 18 U.S.C. § 3582(c) and Amendment 706, to two concurrent 302-month terms (see Dkt. # 200). This modification of sentence did not alter the term imposed in case 90-CR-049, nor the Courts' intent that the sentences in these cases each run consecutively. Accordingly, defendant's total prison term for both cases was reduced to 362 months.

It is the intent of this Court that the 60-month imprisonment term commence on the date of sentence, July 13, 1990, and that defendant is given credit for all time served in official detention as permitted under the provisions of 18 U.S.C. § 3585.

IT IS SO RECOMMENDED this 13th day of December, 2010.



CLAIRE V. EAGAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT

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

FILED SL

FEB 11 2011

Phil Lombardi, Clerk
U.S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MICHAEL BENJAMIN QUICK,)
)
Defendant.)

Case No. 90-CR-0117-001-HDC ✓

ENTERED ON DOCKET
DATE 2/11/11

OPINION AND ORDER

This matter comes before the Court pursuant to defendant's motion for early termination of supervised release (Dkt. # 8).

In January 1991 defendant was sentenced to the custody of the Bureau of Prisons for a term of 18 months following entry of a plea of guilty to the charge of bank fraud, in violation of 18 U.S.C. § 1344, and fraudulent use of a social security number, in violation of 42 U.S.C. § 408(g)(2). The Court further ordered defendant to serve a term of supervised release of three years as to each count. Finally, the Court imposed restitution of \$456 and a special assessment of \$100. In December 1991 defendant was released from the Bureau of Prisons to detainers lodged by the Oklahoma Department of Corrections and the Desoto Parish Sheriff's Office, Mansfield, Louisiana. Defendant was subsequently released by these jurisdictions to the terms of supervised release on October 8, 1992. Defendant allegedly failed to report to the probation office following this release, resulting in the filing of a petition on supervised release and issuance of a warrant in February 1993 (Dkt. # 6). Prior to determination of defendant's whereabouts and arrest on the aforementioned warrant, defendant was arrested in Salt Lake City, Utah, charged and subsequently convicted in case 931900514 of second degree attempted murder and firearms enhancement, and imprisoned for an aggregate term

c/CJ-CVE, M. Quick, USA, USPO

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of one to twenty years. In November 1993, upon discovery of defendant's status, an amended petition on supervised release was filed alleging a new law violation (Dkt. # 7), and a detainer was lodged with Utah authorities. Defendant is scheduled for discharge from the Utah Department of Corrections in March 2013.

Defendant, currently an inmate with the Utah Department of Corrections, argues termination of supervised release is justified as he has, after more than twenty years of imprisonment, distanced himself from criminal behavior, participated in treatment and training programs, and exhibited good inmate conduct. Defendant further reasons that termination of supervision is warranted because the instant convictions are for modest crimes, the cost of his monitoring outweighs the need for continued supervision as evidenced by his exemplary institutional record and demonstration of repentance, and to terminate supervised release is in the interest of justice. Dkt. # 8, pp. 2 - 4.

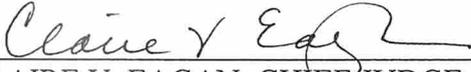
Defendant's motion is disingenuous as he is fully aware of the petition for revocation alleging failure to report and a new law violation, and an institutional hold relative to these allegations. Defendant was advised of these allegations and warrant in a letter from the probation office dated March 29, 2010. Upon defendant's release by the State of Utah, he will remain in custody and be transported to this district so he will appear to show cause why his terms of supervised release should not be revoked.

A district court may, upon consideration of factors set out in 18 U.S.C. § 3553(a), terminate a term of supervised release and discharge a defendant at any time after expiration of one year of supervised release. See 18 U.S.C. § 3583(e)(1). By statute, a district court may not reduce the time a defendant is required to serve on supervised release until after service of at least a year of the term. The purpose of this statutory limitation is to afford a court adequate time to assess defendant's

conduct and progress while in the community. See United States v. Joseph, 109 F.3d 34, 39 (1st Cir. 1997) (holding that a district court may not grant defendant's request for early termination prior to service of one year as the provisions of § 3583(e)(1) strongly imply Congress's judgment that the proper reintegration of formerly incarcerated offenders requires, at the very least, one year of supervised release). Further, in view of § 3553(a) factors and considering the nature and circumstances of defendant's criminal history,¹ and specifically, evidence defendant violated conditions of supervised release by committing a new law violation, this Court is of the opinion that defendant is clearly in need of long-term intensive supervision following release from imprisonment. This Court lacks the authority to reduce the term of supervised release at this time and, even if authorized, would deny defendant's motion based on his history and characteristics, the need to protect the community from further crimes, the need to afford adequate deterrence to criminal conduct, and the need to provide defendant with correctional treatment.

IT IS THEREFORE ORDERED that defendant's request for early termination of supervised release (Dkt. # 8) is **dismissed for lack of jurisdiction**.

DATED this 11th day of February, 2011.



CLAIRE V. EAGAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT

¹ Defendant's criminal history includes convictions for voluntary manslaughter, reduced from a charge of murder in 1973, escape in 1974, bogus checks in 1982, forgery in 1984, abandonment in 1987, driving under the influence in 1988, burglary in 1990, forgery in 1991, and attempted murder by use of firearm in 1993.