

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

No. 18-15910

OCTAVIOUS DEMONT WILLIAMS,

Petitioner-Appellant,

v.

F. MARTINEZ, Warden of FCI Safford,

Respondent-Appellee.

Appeal from the United States District Court for the
District of Arizona;

D.C. No. 4:17-cv-00577-RCC-JR

Before: GRABER and M. SMITH, *Circuit Judges.*

The request for a certificate of appealability (Docket
Entry No. 2) is denied because appellant has not
shown that "jurists of reason would find it debatable
whether the petition states a valid claim of the denial
of a constitutional right and that jurists of reason

would find it debatable whether the district court was correct in its procedural ruling." *Slack v. Mcdaniel*, 529 U.S. 473, 484 (2000); see also 28 U.S.C. § 2253(c)(2); *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012); *Porter v. Adams*, 244 F.3d 1006, 1007 (9th Cir. 2001) (order) (holding that a successive 28 U.S.C. § 2255 motion disguised as a 28 U.S.C. § 2241 petition requires a certificate of appealability).

Any pending motions are denied as moot.

DENIED.

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vs.

F. MARTINEZ, Warden of FCI Safford

Respondent-Appellee.

Appeal from the United States District Court for the
District of Arizona.
D.C. No. 4:17-cv-00577-RCC-JR

Before: TROTT and WARDLAW, *Circuit Judges.*

The “notice of appeal” is construed as a motion
for reconsideration (Docket Entry No. 5) and is
denied. *See* 9th Cir. R. 27-10.

No further filings will be entertained in this
closed case.

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF TEXAS SAN
ANTONIO DIVISION

UNITED STATES OF AMERICA

Plaintiff,

vs.

OCTAVIOUS WILLIAMS,

Defendant.

TRANSCRIPT OF TRIAL BEFORE THE
HONORABLE FRED BIERY CHIEF UNITED
STATES DISTRICT JUDGE AND A JURY

VOLUME I OF II

A P P E A R A N C E S:

FOR THE PLAINTIFF:

UNITED STATES ATTORNEY'S OFFICE
By: Charlie Strauss, Esquire
601 N.W. Loop 410, Suite 600
San Antonio, TX 78216

FOR THE DEFENDANT:
LAW OFFICES OF JAMES L. RODRIGUEZ
By: James L. Rodríguez, Esquire
1507 N. St. Mary's Street
San Antonio, TX 78215-1413

COURT REPORTER:
CHRIS POAGE
United States Court Reporter
655 E. Cesar E. Chavez Blvd., Rm. 314
San Antonio, TX 78206
Telephone: (210) 244-5036
Chris_poage@txwd.uscourts.gov

Proceedings reported by stenotype, transcript
produced by computer-aided transcription.

Chris Poage, RMR, CRR
United States Court Reporter
7/15/04

PROCESSION

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ST. CHARLES

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Trial Transcript, Volume I of II at P.2 of 139

WITNESS INDEX

PAGE

Opening Statement by Mr. Strauss.....60

MARK RODRIGUEZ

Direct Examination by Mr. Strauss.....69

Cross Examination by Mr. Rodriguez.....92

Redirect Examination by Mr. Straus.....96

TIMOTHY CAHILL

Direct Examination by Mr. Strauss.....98

MARK RODRIGUEZ

Direct Examination by Mr. Strauss.....104

Cross Examination by Mr. Rodriguez.....120

SCOTT LACOUR

Direct Examination by Mr. Strauss.....121

Cross Examination by Mr. Rodriguez.....128

EXHIBIT INDEX

Government' Exhibit No. 6 admitted.....	76
Government' Exhibit Nos. 1 and 2 admitted.....	81
Government' Exhibit No. 3 admitted.....	108
Government' Exhibit No. 4 admitted.....	108
Government' Exhibit No. 5 admitted.....	114
Government' Exhibit No. 7 admitted.....	131

Chris Poage, RMR, CRR United States Court
Reporter

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Trial Transcript, Volume I of II at P.50 of 139

THE COURT: Really pushing, pushing, pushing. *REVERSE* sting is like going fishing. Law Enforcement.

THE JUROR: Puts the bait out there.

THE COURT: -- puts the bait out there. And if he shows up, you catch the fish. If he doesn't, you don't. So you see the difference?

THE JUROR: Uh-huh. I understand.

The other question I had is, did he actually get in trouble with any drugs, or was it just the process of attempting to buy?

THE COURT: Well, okay, good question. He's charged with attempting to.

THE JUROR: To buy drugs.

THE COURT: And so, in other words, in those kind of cases, whether reverse or otherwise, it's an

investigation. And, of course, they don't want the person to get away. So once they feel like they have enough evidence of phone conversations, undercover stuff, pictures, maybe surveillance and they're getting ready to consummate the deal in the parking lot, then the -- in this case, I'm sure undercover agent -- is it Rodriguez? Yes, Rodriguez -- gives a prearranged signal.

And the government says the evidence is going to be that Mr. Williams showed up with \$50,000 in cash. So once you get to that point, then they give the signal and in they come, so that the cocaine doesn't change -- that's why it's attempt.

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Trial Transcript, Volume I of II at P.62 of 139

fronted to you. That was the conversation.

Finally, arrangements were made for Mr. Williams to come down and make the purchase that they had been talking about. And he did so on May 16th of 2011.

And going back to April 29th, that phone conversation was also recorded. So you'll hear an audio recording of that phone conversation.

On May 16th they again met in the parking lot of the restaurant where they had met back on April 5th. They had a conversation in Mark Rodriguez' undercover vehicle. And the vehicle was equipped with both video and audio. So I anticipate you will see the video and audio of that meeting and that conversation.

And during that conversation Mr. Williams indicated that he couldn't come up with quite as much as they had talked about before, but he had come up with \$50,000, and he implored Mr. Rodriguez to let me have the seven kilos. I'll take them back. I'll sell them real quick. I'll bring him money. You can trust me. So he attempted to actually purchase seven kilograms of cocaine from Mr. Rodriguez. Once Mr. Rodriguez saw the money that Mr. Williams had brought, he gave an arrest signal, and other DEA agents and task force officers that were on surveillance descended upon Mr. Williams and arrested him. And they seized that \$50,000. And the \$50,000 were later forfeited to the government, to the

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IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF TEXAS SAN
ANTONIO DIVISION

UNITED STATES OF AMERICA

Plaintiff,

vs.

OCTAVIOUS WILLIAMS,

Defendant.

TRANSCRIPT OF TRIAL BEFORE THE
HONORABLE FRED BIERY CHIEF UNITED
STATES DISTRICT JUDGE AND A JURY

VOLUME II OF II

A P P E A R A N C E S:

FOR THE PLAINTIFF:

UNITED STATES ATTORNEY'S OFFICE

By: Charlie Strauss, Esquire

601 N.W. Loop 410, Suite 600

San Antonio, TX 78216

FOR THE DEFENDANT:

LAW OFFICES OF JAMES L. RODRIGUEZ

By: James L. Rodriguez, Esquire

1507 N. St. Mary's Street

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COURT REPORTER:

CHRIS POAGE

United States Court Reporter

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San Antonio, TX 78206

Telephone: (210) 244-5036

Chris_poage@txwd.uscourts.gov

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Trial Transcript, Volume II of II at p.141

INDEX

	PAGE
Court's Instructions.....	145
Closing Statement by Mr. Strauss.....	157
Closing Statement by Mr. Rodriguez.....	164
Closing Statement by Mr. Strauss.....	168
Verdict.....	178

Chris Poage, RMR, CRR
United States Court Reporter

Trial Transcript, Volume II of II at pp. 151, 152

whether the defendant had a motive or the opportunity to commit the acts charged in the indictment or whether the defendant acted according to a plan or in preparation for commission of a crime or whether the defendant committed the acts for which he is on trial by accident or mistake. These are the limited purposes for which any evidence of other similar acts may be considered.

The indictment charges that on or about May 16, 2011, in the Western District of Texas, the defendant, Octavious Williams, did unlawfully, knowingly and intentionally attempt to possess with intent to distribute a controlled substance, which offense involved five kilograms or more of cocaine, a schedule 2 controlled substance in violation of

Title 21, United States Code, Section 846, 841(a)(1) and 841(b)(1)(A).

It is a crime for anyone to attempt to commit a violation of certain specified laws of the United States. In this case the defendant is charged with attempting to possess with intent to distribute a controlled substance. The elements of possession with intent to distribute a controlled substance are:

First, that the defendant knowingly possessed a controlled substance;

Second, that the substance was, in fact, cocaine;

Third, that the defendant possessed the substance with the intent to distribute it. And;

Fourth, that the quantity of the substance was five kilograms or more.

"To possess with intent to distribute" simply means to possess with intent to deliver or transfer possession of a controlled substance to another person with or without any financial interest in the transaction.

For you to find the defendant guilty of attempting to commit possession with intent to distribute a controlled substance, you must be convinced that the government has proved each of the following beyond a reasonable doubt:

First, that the defendant intended to commit possession with intent to distribute a controlled substance. And;

Second, that the defendant did an act constituting a substantial step towards the commission of that crime which strongly corroborates the defendant's criminal intent.

We have just talked about what the government has to prove for you to convict the defendant of the crime charged in the indictment, of attempting to commit possession with intent to distribute five kilograms or more of cocaine.

Your first task is to decide whether the government has proved beyond a reasonable doubt that the defendant committed the crime. If your verdict on that is guilty, you are finished. But if your verdict is no guilty, or if, after all reasonable efforts, you are unable to reach a verdict, you

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United States Court Reporter

UNITED STATES DISTRICT COURT WESTERN
DISTRICT OF TEXAS SAN ANTONIO DIVISION

UNITED STATES
OF AMERICA,

Plaintiff,

v.

OCTAVIOUS DEMONT WILLIAMS,

Defendant.

) [Vic: 21

) U.S.C. § 846:

) Attempted

) Possession

) With Intent

) to Distribute

) Cocaine.]

THE GRAND JURY CHARGES:

COUNT ONE

[21 U.S.C. § 846]

That on or about May 16, 2011, in the Western

District of Texas, Defendant;

OCTAVIOUS WILLIAMS,

Did unlawfully, knowingly and intentionally attempt
to possess with intent to distribute a controlled
substance, which offense involved five kilograms or
more of cocaine, a Schedule II Controlled Substance,

in violation of Title 21, United States Code, Sections
846, 841(a)(1) and 841(b)(1)(A).

A TRUE BILL

JOHN E. MURPHY
United States Attorney

By: CHARLIE STRAUSS
Assistant United States Attorney

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Case Number: SA-11-CR-402(1)FB

USM Number 27529-077

UNITED STATES OF AMERICA

v.

OCTAVIOUS WILLIAMS,
TRUE NAME: OCTAVIOUS DEMONT WILLIAMS,
Aliases: "Tay"; Tate Williams: Octavious D. Williams,
Defendant,

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

The defendant, OCTAVIOUS DEMONT WILLIAMS, Aliases: "Tay"; Tate Williams: Octavious D. Williams was represented by Mr. James Leonard Rodriguez, Esquire.

The defendant is adjudged guilty of such Count, involving the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>
21 USC 846, 21	Attempt to Possess With
21 USC 841(A)(1) &	Intent to Distribute
841(b)(1)(A)	Cocaine

<u>Offense Ended</u>	<u>Count (s)</u>
May 16, 2011	One

As pronounced on November 30, 2012, the defendant is sentenced as provided in pages 2 through 8 of this Judgement. 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 Judgement are fully paid. If ordered to pay restitution, the defendant shall notify the Court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this the 5th day of December, 2012.

FRED BIER
CHIEF UNITED STATES DISTRICT JUDGE

* * *
