

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

No. 18-15910

OCTAVIOUS DEMONT WILLIAMS,

NO. 18-15910  
*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 (9<sup>th</sup> 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.**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

No. 18-15910 ~~ALL BRIEFS FILED~~ (Docket No. 2018-3447)

OCTAVIOUS DEMONT WILLIAMS, ~~ALL BRIEFS FILED~~

Plaintiff-Appellant, *Petitioner-Appellant*,

v. F. MARTINEZ, Warden of FCI Safford, ~~ALL BRIEFS FILED~~

Defendant-Respondent, *Respondent-Appellee*.

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

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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* 9<sup>th</sup> 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

vs.

OCTAVIOUS WILLIAMS,

*Plaintiff,*

*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. Rodriguez, 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  
655 E. Cesar E. Chavez Blvd., Rm. 314  
San Antonio, TX 78206

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San Antonio, TX 78206  
Telephone: (210) 244-5036  
Email: Chris\_poage@txwd.uscourts.gov

## 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. Strauss.....	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

ATTACHMENT

Chris Poage, RMR, CRR United States Court  
Reporter, 1970-1971

1970-1971, 1971

1970-1971, 1971

1970-1971, 1971

1970-1971, 1971

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

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

THE JUROR: Puts the bait out there.

THE COURT: It 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. 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.

Concededly, in this particular job

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 attempted. (MURKIN)

Chris Poage, RMR, CRR  
United States Court Reporter (H)

RECORDED AND INDEXED (MURKIN)

RECORDED AND INDEXED (MURKIN)

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 16<sup>th</sup> of 2011. And I do have information that on April 29<sup>th</sup>, that phone conversation was also recorded. So you'll hear an audio recording of that phone conversation.

On May 16<sup>th</sup> they again met in the parking lot of the restaurant where they had met back on April 5<sup>th</sup>. 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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United States Court Reporter

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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.*

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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  
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COURT REPORTER:  
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San Antonio, TX 78206  
Telephone: (210) 244-5036  
Email: Chris\_poage@txwd.uscourts.gov

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

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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 or 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 discharged 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.

That is the opinion of the court.

"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, ) [Viol. 21  
Plaintiff, ) U.S.C. § 846:  
v. ) Attempted  
OCTAVIOUS DEMONT WILLIAMS, ) Possession  
Defendant. ) 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  
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.

DEPARTMENT OF JUSTICE  
v. OCTAVIOUS WILLIAMS

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

Defendant,

21 USC 846, 21  
21 USC 841(A)(1) &  
841(b)(1)(A)

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 &amp; Section</u>	<u>Nature of Offense</u>
21 USC 846, 21	Attempt to Possess With
21 USC 841(A)(1) & 841(b)(1)(A)	Intent to Distribute 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 5<sup>th</sup> day of December, 2012.

FRED BIER  
CHIEF UNITED STATES DISTRICT JUDGE

\* \* \*

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