

APPENDIX

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 18-30007
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 19, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ASHLEY OWENS,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 3:16-CR-244-1

Before SMITH, WIENER, and WILLETT, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Ashley Owens appeals her sentence for conspiracy to commit mail fraud. Owens contends that the district court erred in accepting the loss calculation set forth in the presentence report for purposes of an enhancement under U.S.S.G. § 2B1.1(b)(1)(I). She argues that, after receiving an updated restitution calculation from the probation officer, the district court should have adjusted the guideline loss calculation. She

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 18-30007

complains that she did not receive additional information about the loss calculation until shortly before the sentencing hearing.

Owens did not object in the district court, so our review is limited to plain error. *See Puckett v. United States*, 556 U.S. 129, 135 (2009). To establish plain error, Owens must show a forfeited error that is clear or obvious and that affects her substantial rights. *See id.* If she makes such a showing, this court has the discretion to correct the error, but only if the error seriously affects the fairness, integrity, or public reputation of judicial proceedings. *See id.*

The amount of loss attributable to a defendant at sentencing is a finding of fact. *United States v. Simpson*, 741 F.3d 539, 556 (5th Cir. 2014). This court has held that “questions of fact capable of resolution by the district court can never constitute plain error.” *United States v. Chung*, 261 F.3d 536, 539 (5th Cir. 2001) (internal quotation marks and citations omitted). Owens has thus failed to show that the district court plainly erred by adopting the presentence report’s factual findings regarding the loss amount. *See Puckett*, 556 U.S. at 135; *Chung*, 261 F.3d at 539.

Owens has also failed to show clear error in the district court’s failure to amend the guideline loss calculation to match the restitution calculation. *See Puckett*, 556 U.S. at 135; *United States v. Bazemore*, 839 F.3d 379, 388 (5th Cir. 2016); *United States v. Sharma*, 703 F.3d 318, 322 (5th Cir. 2012). Neither has Owens shown reversible plain error related to the disclosure, shortly before sentencing, of information regarding the amount of actual losses for purposes of restitution. *See Puckett*, 556 U.S. at 135.

AFFIRMED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

September 19, 2018

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 18-30007 USA v. Ashley Owens
USDC No. 3:16-CR-244-1

Enclosed is a copy of the court's decision. The court has entered judgment under FED. R. APP. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

FED. R. APP. P. 39 through 41, and 5TH Cir. R.s 35, 39, and 41 govern costs, rehearings, and mandates. **5TH Cir. R.s 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following FED. R. APP. P. 40 and 5TH CIR. R. 35 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. 5TH CIR. R. 41 provides that a motion for a stay of mandate under FED. R. APP. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under FED. R. APP. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk

Erica Benoit

By: _____
Erica A. Benoit, Deputy Clerk

Enclosure(s)

Ms. Camille Ann Domingue
Mr. Russell A. Woodard Jr.

DEFENDANT: Ashley Owens
CASE NUMBER: 3:16-cr-00244-1
DISTRICT: Western District of Louisiana - Monroe Division

DEC 22 2017

TONY R. MOORE, CLERK
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT, LOUISIANA

STATEMENT OF REASONS
(Not for Public Disclosure)

Sections I, II, III, IV, and VII of the Statement of Reasons form must be completed in all felony and Class A misdemeanor cases.

I COURT FINDINGS ON PRESENTENCE INVESTIGATION REPORT

- A ☒ **The court adopts the presentence investigation report without change.**
- B ☐ **The court adopts the presentence investigation report with the following changes:** *(Use Section VIII if necessary)*
(Check all that apply and specify court determination, findings, or comments, referencing paragraph numbers in the presentence report)
- 1 ☐ **Chapter Two of the United States Sentencing Commission Guidelines Manual determinations by court** *(briefly summarize the changes, including changes to base offense level, or specific offense characteristics):*
- 2 ☐ **Chapter Three of the United States Sentencing Commission Guidelines Manual determinations by court** *(briefly summarize the changes, including changes to victim-related adjustments, role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility):*
- 3 ☐ **Chapter Four of the United States Sentencing Commission Guidelines Manual determinations by court** *(briefly summarize the changes, including changes to criminal history category or scores, career offender status, or criminal livelihood determinations):*
- 4 ☐ **Additional Comments or Findings** *(include comments or factual findings concerning any information in the presentence report, including information that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions; any other rulings on disputed portions of the presentence investigation report; identification of those portions of the report in dispute but for which a court determination is unnecessary because the matter will not affect sentencing or the court will not consider it):*
- C ☐ **The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32.**
Applicable Sentencing Guideline (if more than one guideline applies, list the guideline producing the highest offense level): _____

II COURT FINDINGS ON MANDATORY MINIMUM SENTENCE *(Check all that apply.)*

- A ☒ One or more counts of conviction carry a mandatory minimum term of imprisonment and the sentence imposed is at or above the applicable mandatory minimum term.
- B ☐ One or more counts of conviction carry a mandatory minimum term of imprisonment, but the sentence imposed is below the mandatory minimum term because the court has determined that the mandatory minimum term does not apply based on:
- ☐ findings of fact in this case (Specify): _____
- ☐ substantial assistance (18 U.S.C. § 3553(e))
- ☐ the statutory safety valve (18 U.S.C. § 3553(f))
- C ☐ No count of conviction carries a mandatory minimum sentence.

III COURT DETERMINATION OF GUIDELINE RANGE (BEFORE DEPARTURES OR VARIANCES):

Total Offense Level: 28
Criminal History Category: I
Guideline Range *(after application of §§ 5G1.1 and 5G1.2)*: 78 to 97 months
Supervised Release Range: 1 to 3 years
Fine Range: \$12,500.00 to \$125,000.00

- ☒ Fine waived or below the guideline range because of inability to pay.

DEFENDANT: Ashley Owens
CASE NUMBER: 3:16-cr-00244-1
DISTRICT: Western District of Louisiana - Monroe Division

STATEMENT OF REASONS

IV GUIDELINE SENTENCING DETERMINATION *(Check all that apply)*

- A ☒ The sentence is within the guideline range and the difference between the maximum and minimum of the guideline range does not exceed 24 months.
- B ☐ The sentence is within the guideline range and the difference between the maximum and minimum of the guideline range exceeds 24 months, and the specific sentence is imposed for these reasons: _____ *(Use Section VIII if necessary)*
- C ☐ The court departs from the guideline range for one or more reasons provided in the Guidelines Manual. *(Also complete Section V)*
- D ☐ The court imposed a sentence otherwise outside the sentencing guideline system (i.e., a variance). *(Also complete Section VI)*

V DEPARTURES PURSUANT TO THE GUIDELINES MANUAL *(If applicable)*

A **The sentence imposed departs** *(Check only one):*

- ☐ above the guideline range
- ☐ below the guideline range

B **Motion for departure before the court pursuant to** *(Check all that apply and specify reason(s) in sections C and D):*

1 **Plea Agreement**

- ☐ binding plea agreement for departure accepted by the court
- ☐ plea agreement for departure, which the court finds to be reasonable
- ☐ plea agreement that states that the government will not oppose a defense departure motion

2 **Motion Not Addressed in a Plea Agreement**

- ☐ government motion for departure
- ☐ defense motion for departure to which the government did not object
- ☐ defense motion for departure to which the government objected
- ☐ joint motion by both parties

3 **Other**

- ☐ Other than a plea agreement or motion by the parties for departure

C **Reasons for departure** *(Check all that apply):*

- | | | |
|---|--|--|
| <input type="checkbox"/> 4A1.3 Criminal History Inadequacy | <input type="checkbox"/> 5K2.1 Death | <input type="checkbox"/> 5K2.12 Coercion and Duress |
| <input type="checkbox"/> 5H1.1 Age | <input type="checkbox"/> 5K2.2 Physical Injury | <input type="checkbox"/> 5K2.13 Diminished Capacity |
| <input type="checkbox"/> 5H1.2 Education and Vocational Skills | <input type="checkbox"/> 5K2.3 Extreme Psychological Injury | <input type="checkbox"/> 5K2.14 Public Welfare |
| <input type="checkbox"/> 5H1.3 Mental and Emotional Condition | <input type="checkbox"/> 5K2.4 Abduction or Unlawful Restraint | <input type="checkbox"/> 5K2.16 Voluntary Disclosure of Offense |
| <input type="checkbox"/> 5H1.4 Physical Condition | <input type="checkbox"/> 5K2.5 Property Damage or Loss | <input type="checkbox"/> 5K2.17 High-Capacity Semiautomatic Weapon |
| <input type="checkbox"/> 5H1.5 Employment Record | <input type="checkbox"/> 5K2.6 Weapon | <input type="checkbox"/> 5K2.18 Violent Street Gang |
| <input type="checkbox"/> 5H1.6 Family Ties and Responsibilities | <input type="checkbox"/> 5K2.7 Disruption of Government Function | <input type="checkbox"/> 5K2.20 Aberrant Behavior |
| <input type="checkbox"/> 5H1.11 Military Service | <input type="checkbox"/> 5K2.8 Extreme Conduct | <input type="checkbox"/> 5K2.21 Dismissed and Uncharged Conduct |
| <input type="checkbox"/> 5H1.11 Charitable Service/Good Works | <input type="checkbox"/> 5K2.9 Criminal Purpose | <input type="checkbox"/> 5K2.22 Sex Offender Characteristics |
| <input type="checkbox"/> 5K1.1 Substantial Assistance | <input type="checkbox"/> 5K2.10 Victim's Conduct | <input type="checkbox"/> 5K2.23 Discharged Terms of Imprisonment |
| <input type="checkbox"/> 5K2.0 Aggravating/Mitigating Circumstances | <input type="checkbox"/> 5K2.11 Lesser Harm | <input type="checkbox"/> 5K2.24 Unauthorized Insignia |
| | | <input type="checkbox"/> 5K3.1 Early Disposition Program (EDP) |
- ☐ Other Guideline Reason(s) for Departure, to include departures pursuant to the commentary in the Guidelines Manual (see "List of Departure Provisions" following the Index in the Guidelines Manual). *(Please specify):*

D ☐ **State the basis for the departure.** *(Use Section VIII if necessary)*

DEFENDANT: Ashley Owens
CASE NUMBER: 3:16-cr-00244-1
DISTRICT: Western District of Louisiana - Monroe Division

STATEMENT OF REASONS

VI COURT DETERMINATION FOR A VARIANCE (If applicable)

A The sentence imposed is (Check only one):

- ☐ above the guideline range
☐ below the guideline range

B Motion for a variance before the court pursuant to (Check all that apply and specify reason(s) in sections C and D):

1 Plea Agreement

- ☐ binding plea agreement for a variance accepted by the court
☐ plea agreement for a variance, which the court finds to be reasonable
☐ plea agreement that states that the government will not oppose a defense motion for a variance

2 Motion Not Addressed in a Plea Agreement

- ☐ government motion for a variance
☐ defense motion for a variance to which the government did not object
☐ defense motion for a variance to which the government objected
☐ joint motion by both parties

3 Other

- ☐ Other than a plea agreement or motion by the parties for a variance

C 18 U.S.C. § 3553(a) and other reason(s) for a variance (Check all that apply)

☐ The nature and circumstances of the offense pursuant to 18 U.S.C. § 3553(a)(1)

- | | | |
|--|--|--|
| <input type="checkbox"/> Mens Rea | <input type="checkbox"/> Extreme Conduct | <input type="checkbox"/> Dismissed/Uncharged Conduct |
| <input type="checkbox"/> Role in the Offense | <input type="checkbox"/> Victim Impact | |
| <input type="checkbox"/> General Aggravating or Mitigating Factors (Specify) _____ | | |

☐ The history and characteristics of the defendant pursuant to 18 U.S.C. § 3553(a)(1)

- | | |
|--|---|
| <input type="checkbox"/> Aberrant Behavior | <input type="checkbox"/> Lack of Youthful Guidance |
| <input type="checkbox"/> Age | <input type="checkbox"/> Mental and Emotional Condition |
| <input type="checkbox"/> Charitable Service/Good Works | <input type="checkbox"/> Military Service |
| <input type="checkbox"/> Community Ties | <input type="checkbox"/> Non-Violent Offender |
| <input type="checkbox"/> Diminished Capacity | <input type="checkbox"/> Physical Condition |
| <input type="checkbox"/> Drug or Alcohol Dependence | <input type="checkbox"/> Pre-sentence Rehabilitation |
| <input type="checkbox"/> Employment Record | <input type="checkbox"/> Remorse/Lack of Remorse |
| <input type="checkbox"/> Family Ties and Responsibilities | <input type="checkbox"/> Other (Specify): _____ |
| <input type="checkbox"/> Issues with Criminal History (Specify): _____ | |

- ☐ To reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense (18 U.S.C. § 3553(a)(2)(A))
- ☐ To afford adequate deterrence to criminal conduct (18 U.S.C. § 3553(a)(2)(B))
- ☐ To protect the public from further crimes of the defendant (18 U.S.C. § 3553(a)(2)(C))
- ☐ To provide the defendant with needed educational or vocational training (18 U.S.C. § 3553(a)(2)(D))
- ☐ To provide the defendant with medical care (18 U.S.C. § 3553(a)(2)(D))
- ☐ To provide the defendant with other correctional treatment in the most effective manner (18 U.S.C. § 3553(a)(2)(D))
- ☐ To avoid unwarranted sentencing disparities among defendants (18 U.S.C. § 3553(a)(6)) (Specify in section D)
- ☐ To provide restitution to any victims of the offense (18 U.S.C. § 3553(a)(7))
- | | | |
|--|--|--|
| <input type="checkbox"/> Acceptance of Responsibility | <input type="checkbox"/> Conduct Pre-trial/On Bond | <input type="checkbox"/> Cooperation Without Government Motion for Departure |
| <input type="checkbox"/> Early Plea Agreement | <input type="checkbox"/> Global Plea Agreement | |
| <input type="checkbox"/> Time Served (not counted in sentence) | <input type="checkbox"/> Waiver of Indictment | <input type="checkbox"/> Waiver of Appeal |
- ☐ Policy Disagreement with the Guidelines (Kimbrough v. U.S., 552 U.S. 85 (2007)). (Specify): _____

☐ Other (Specify): _____

D State the basis for a variance. (Use Section VIII if necessary)

DEFENDANT: Ashley Owens
CASE NUMBER: 3:16-cr-00244-1
DISTRICT: Western District of Louisiana - Monroe Division

STATEMENT OF REASONS

**VII COURT DETERMINATIONS OF
RESTITUTION**

A ☐ Restitution not applicable.

B Total amount \$300,112.80

C Restitution not ordered (Check only one):

- 1 ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).
- 2 ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).
- 3 ☐ For other offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweigh the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).
- 4 ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. §§ 1593, 2248, 2259, 2264, 2327 or 3663A, restitution is not ordered because the victim(s)' losses were not ascertainable (18 U.S.C. § 3664(d)(5)).
- 5 ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. §§ 1593, 2248, 2259, 2264, 2327 or 3663A, restitution is not ordered because the victim(s) elected to not participate in any phase of determining the restitution order (18 U.S.C. § 3664(g)(1)).
- 6 ☐ Restitution is not ordered for other reasons. (Explain)

D ☐ Partial restitution is ordered for these reasons (18 U.S.C. § 3553(c)):

VIII ADDITIONAL BASIS FOR THE SENTENCE IN THIS CASE (If applicable)

- ☒ In the event the guideline determination(s) made in this case are found to be incorrect, the court would impose a sentence identical to that imposed in this case. (18 U.S.C. § 3553(a)).

Defendant's Soc. Sec. No.: 434-73-4150
Defendant's Date of Birth: 09/11/1986
Defendant's Residence Address: 1407 Sycamore Street, Monroe, Louisiana 71202
Defendant's Mailing Address: Same as above

COPY SENT:
DATE: 12/22/17
BY: CW
TO: Campbell
Woodard

December 18, 2017

Date of Imposition of Judgment

Signature of Judge

S. MAURICE HICKS, JR., Chief, United States District
Judge

Name and Title of Judge

Date Signed 12/21/17

INDICTMENT

UNITED STATES DISTRICT COURT

RECEIVED

U.S.D.C. WESTERN DISTRICT OF LOUISIANA
TONY H. MOORE, CLERK
SHREVEPORT, LOUISIANA

MONORE DIVISION

DATE 10/26/16
smd

UNITED STATES OF AMERICA

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CRIMINAL NO: 16-00244

VERSUS

ASHLEY OWENS (01) and
FELICIA SIMPSON (02)

DISTRICT JUDGE HICKS
MAGISTRATE JUDGE HAYES

INDICTMENT

THE GRAND JURY CHARGES:

AT ALL TIMES MATERIAL HEREIN

COUNT 1

(Conspiracy, 18 U.S.C. § 1349)

I. BACKGROUND

1. ASHLEY OWENS is a resident of Monroe Louisiana.
2. FELICIA SIMPSON is a resident of Monroe, Louisiana and was employed by a private automobile title processing business that was contracted by the State of Louisiana, Office of Motor Vehicles (OMV) to process automobile title applications. FELECIA SIMPSON's employer was located in Monroe, Louisiana.
3. Q.G. is a resident of Douglasville, Georgia and a half-sister of ASHLEY OWENS.
4. In the State of Louisiana, a person may obtain an automobile title by submitting a title application and supporting documentation (hereinafter "title

application”) to the OMV or an OMV authorized automobile title processor (hereinafter “title processor”). If the title application is submitted to a title processor, the title processor forwards the title to the OMV in Baton Rouge, Louisiana. Once the title application is received by officials at the OMV, the title application is further processed and an automobile title is mailed to the title applicant within two weeks.

5. In addition to receiving a mailed automobile title from OMV, an applicant may receive a title on an expedited basis directly from the title processor. To receive an expedited title, the title processor uses a computer program to electronically submit the application to the OMV. Within 24 hours, the OMV electronically transmits authorization of the title application to the title processor. Once the title processor receives authorization from OMV, the title processor produces an automobile title and provides it to the applicant.

6. As an employee at Lagniappe, it was part of FELICIA SIMPSON’s duties and responsibilities to process expedited and non-expedited automobile titles for applicants.

II. THE CONSPIRACY

Beginning on or about a date unknown to the Grand Jury, but no later than November 2014, and continuing until June 2015, in the Western District of Louisiana, and elsewhere, the Defendants, ASHLEY OWENS and FELICIA SIMPSON, and others both known and unknown to the Grand Jury, did knowingly and willfully combine, conspire and confederate and agree together to commit Mail Fraud in violation of Title 18, United States Code, Sections 1341.

III. OBJECT OF THE CONSPIRACY

The primary object of the conspiracy was to illegally obtain money by providing automobile titles for automobiles that had been stolen or illegally obtained.

IV. MEANS AND MANNER OF CONSPIRACY AND SCHEME AND ARTIFICE TO DEFRAUD

As part of the means and manner of the conspiracy and the scheme and artifice to defraud, the defendants committed various acts, including but not limited to, the following acts:

A. It was part of the conspiracy and scheme and artifice to defraud that Q.G. assembled automobile title related documents that contained fictitious names, addresses, and vehicle identification numbers (VINs) pertaining to stolen or illegally obtained automobiles.

B. It was further part of the conspiracy and scheme and artifice to defraud that Q.G. sent the fraudulent automobile title related documents to ASHLEY OWENS in Monroe, Louisiana.

C. It was further part of the conspiracy and scheme and artifice to defraud that ASHLEY OWENS delivered the fraudulent automobile title related documents she received from Q.G. to FELICIA SIMPSON at Lagniappe.

D. It was part of the conspiracy and scheme and artifice to defraud that FELICIA SIMPSON used her employment and access at Lagniappe to obtain expedited automobile titles based on the false and fictitious information on the documents provided by Q.G. and delivered by ASHLEY OWENS.

E. It was part of the conspiracy and scheme and artifice to defraud that FELICIA SIMPSON knowingly provided the fraudulent expedited Louisiana titles to ASHLEY OWENS, Q.G., and persons known and unknown to the Grand Jury to facilitate the ownership, sale, and disposition of stolen or otherwise illegally obtained automobiles.

All in violation of Title 18, United States Code, Section 1349 [18 U.S.C. § 1349.]

COUNTS 2-5

(Mail Fraud 18 U.S.C. §§ 1341 & 2)

A. The allegations of Count One are realleged and incorporated by reference as though set forth herein as the scheme and artifice to defraud.

B. On or about the dated listed below in the Western District of Louisiana, and elsewhere ASHLEY OWENS and FELICIA SIMPSON, for the purpose of executing the aforesaid scheme and artifice to defraud and attempting to do so, did knowingly cause to be delivered by Federal Express, a private and commercial interstate carrier, according to the directions thereon, envelopes containing automobile title related forms and documents, which envelopes and contents therein were sent from Douglasville, Georgia to the Federal Express Pick-up Center in Monroe, Louisiana, all in violation of Title 18, United States Code, Sections 1341 and 2 [18 U.S.C. §§ 1341 & 2.]

<u>Counts</u>	<u>Delivery Dates</u>
2	March 10, 2015

3	April 11, 2015
4	May 20, 2015

A TRUE BILL

REDACTED

Grand Jury Foreperson

STEPHANIE A. FINLEY
United States Attorney



Earl M. Campbell
Assistant United States Attorney
300 Fannin Street, Suite 3201
Shreveport, Louisiana 71101
(318) 676-3600

SENTENCING

1 office pursuant to Court order in this case, that the actual
2 amount of restitution that is owed is far less than the amount of
3 calculated net intended loss for purposes of the guidelines.

4 The Court, in its chambers conference, drew a bright line
5 of distinction between those two numbers. And the Court finds
6 that, with the small response with over 100 vehicles potentially
7 involved in restitution, that there were precious few that
8 submitted corroborating information of sufficient kind and
9 character to the Court to consider as evidence for restitution.

10 Therefore, the original number that was used for
11 calculating restitution drops from \$2,425,107.50 to \$300,112.80.

12 The Court notes that there may be additional work or
13 additional information and paperwork submitted between today and
14 the date that Ms. Owens' half-sister, Quinetta Grant, may have to
15 deal with in the terms of her sentencing; and that part of the
16 scheme --

17 Mr. Garner, is this a joint and several kind of situation
18 as a co-conspirator with Ms. Grant?

19 PROBATION OFFICER: Yes, sir, that is correct.

20 THE COURT: Mr. Campbell, likewise?

21 MR. CAMPBELL: Yes, sir.

22 THE COURT: So what the Court will do is this:
23 I'm going to hold you responsible for the \$300,112.80 restitution,
24 but I'm going to make that joint and several with the amount of
25 restitution that Ms. Quinetta Grant will have to pay. Her number

1 THE COURT: All right. Would your client like
2 to address the Court? And I will attach those as additional
3 sentencing materials.

4 MR. WOODARD: Thank you, Your Honor.

5 THE DEFENDANT: Well, I would like to start and
6 state I'm sorry. There's no excuses, and that what happened will
7 never happen again. And if you don't mind, can I say --

8 MR. WOODARD: He's already accepted that.

9 THE COURT: You don't need to reread that.
10 I've already entered that into the record. But you can feel free
11 to tell me what you think I should know before I impose a sentence
12 on you.

13 THE DEFENDANT: I think that I'm a good mother.
14 I'm a hard worker, and hopefully that you can feel in your heart
15 to at least let me -- my kids need me and I need them. And I need
16 to be at work so I can take care of them. So I hope you can feel
17 in your heart to at least let me go home.

18 THE COURT: All right.

19 Mr. Woodard, do you have any concluding remarks?

20 MR. WOODARD: None at this time, Your Honor.

21 THE COURT: Anything from the government,
22 Mr. Campbell?

23 MR. CAMPBELL: I've read the declaration. And
24 considering the very private nature of it, I ask that it be sealed
25 because the Court is aware of the substance of it. And it's very

1 private and sensitive, and I think that should be sealed.

2 MR. WOODARD: No objection, Your Honor.

3 THE COURT: Any objection to her declaration
4 being sealed at this time?

5 MR. WOODARD: I'll actually join in the motion.
6 I should have made it that way.

7 THE COURT: The Court agrees. It will be
8 sealed.

9 MR. WOODARD: Thank you.

10 THE COURT: All right. At this time, the Court
11 adopts the factual findings of the probation office as contained
12 in the presentence report and its addendum.

13 Pursuant to the Sentencing Reform Act of 1984, the
14 defendant, Ashley Owens, is hereby committed to the custody of the
15 Bureau of Prisons for a term of 78 months on Count 1. That is at
16 the bottom end of the guideline range as recommended.

17 The Court is mindful that this is a recommendation to the
18 Court only. It is not mandatory. However, the Court believes
19 that the guidelines have correctly embodied all of the information
20 and activities necessary to properly characterize a reasonable
21 sentence at the 78 month guideline range.

22 The guideline range was selected and sentence imposed
23 following consideration of the factors contained in Title 18,
24 U.S. Code, Section 3553(a) concerning the defendant's criminal
25 history, personal characteristics and involvement in the instant

1 offense.

2 Upon release from imprisonment, the defendant is placed on
3 supervised release for a period of three years. Within 72 hours
4 following release from custody, she is ordered to report to the
5 U.S. Probation Office in the district into which you are released.

6 While on supervised release, this defendant shall not
7 commit another federal, state or local crime; shall not possess a
8 firearm, ammunition or dangerous weapon; and shall comply with all
9 standard conditions of supervision adopted by this Court.

10 In this instance, pursuant to Addendum Number 3 and the
11 work done by the U.S. Probation Office at the request of the
12 Court, restitution in this case in the amount of \$300,112.80
13 is hereby ordered to be paid jointly and severally with Quinetta
14 Grant.

15 As indicated before, additional paperwork may be received
16 by the probation office concerning additional losses that were
17 identified for guideline purposes; and it is possible for
18 Ms. Grant's number to be higher than the amount of restitution
19 ordered in this particular case.

20 The Court has previously found that Felicia Simpson owes no
21 restitution; and, accordingly, you are not bound with her for the
22 repayment of any of that restitution.

23 In this particular instance, the victims in the restitution
24 are: Toyota Lexus Financial Services in the amount of
25 \$268,300.41; Five Star Dodge in the amount of \$10,000 and the

PLEA AGREEMENT

RECEIVED
USDC, WESTERN DISTRICT OF LA.
TONY R. MOORE, CLERK
DATE 5 / 24 / 17
BY DM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

UNITED STATES OF AMERICA	*	CRIMINAL NO.: 16-00244-01
	*	
VERSUS	*	
	*	JUDGE HICKS
ASHLEY OWENS (01)	*	MAGISTRATE JUDGE HAYES

PLEA AGREEMENT

A. INTRODUCTION

1. This document contains the complete plea agreement between the Government and ASHLEY OWENS, the Defendant. No other agreement, understanding, promise, or condition exists, nor will any such agreement, understanding, promise or condition exist unless it is committed to writing in an amendment attached to this document and signed by the Defendant, an attorney for the Defendant, and an attorney for the Government. The terms of this plea agreement are only binding on the Defendant and the Government if the Court accepts the Defendant's guilty plea and the Defendant is sentenced.

B. THE DEFENDANT'S OBLIGATIONS

ASHLEY OWENS shall appear in open court and plead guilty to one count (1) of the Indictment pending in this case.

C. THE GOVERNMENT'S OBLIGATIONS

1. If the Defendant completely fulfills all of her obligations and agreements under this plea agreement, the agreement, the Government agrees that the pending indictment will constitute the Defendant's sole criminal exposure based on the investigation which forms the basis of the Indictment.

2. The Government will and hereby moves, pursuant to U.S.S.G. § 3E1.1(b), for the Defendant to receive a one point reduction in her offense level should that offense level be 16 or greater, as the Defendant has assisted authorities in the investigation or prosecution of her own misconduct by timely notifying authorities of her intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Government and the Court to allocate their resources efficiently.

D. SENTENCING

ASHLEY OWENS understands and agrees that:

1. the maximum punishment on Count 1 is a term of imprisonment of not more than twenty (20) years (pursuant to 18 U.S.C. § 1341) and a fine of not more than \$250,000 (pursuant to 18 U.S.C. § 3571), or both;

2. she shall be required to pay a special assessment of \$100 at the time of the guilty plea by means of a cashier's check, bank official check, or money order payable to "Clerk, U.S. District Court;"

3. she shall receive a term of Supervised Release of not more than three (3) years in length in addition to any term of imprisonment imposed by the Court;

4. a violation of the conditions of Supervised Release at any time during the period of Supervised Release may result in the Defendant being incarcerated over and above any period of imprisonment initially ordered by the Court;

5. the period of incarceration for a violation of a condition of Supervised Release could be as much as the full term of Supervised Release initially ordered by the Court regardless of the amount of time of the Supervised Release Defendant had successfully completed;

6. in addition to the penalties set forth in the preceding paragraphs, the Court must order restitution in this case;

7. any fine and/or restitution imposed as part of the Defendant's sentence will be made due and payable immediately, that the defendant will be held liable for all restitution jointly and severally with all co-defendants and co-conspirators, including United States v. Quinetta Grant, Criminal No. 3:16-cr-00172-01-SMH-KLH, , and any federal income tax refund received by the Defendant from the Internal Revenue Service while there is an outstanding fine and/or restitution shall be applied toward the fine and/or restitution award;

8. as part of the presentence investigation the Government will make available to the Court all evidence developed in the investigation of this case;

9. this case is governed by the Sentencing Reform Act, as modified by United States v. Booker, 543 U.S. 220 (2005), that he has discussed the Sentencing Guidelines and their applicability with her counsel, and understands and

acknowledges that a final determination of the applicable guidelines range cannot be made until the completion of the presentence investigation;

10. the sentencing judge alone will decide what sentence to impose; and,

11. the failure of the Court to adhere to a sentencing recommendation tendered by counsel shall not be a basis for setting aside the guilty plea which is the subject of this agreement.

E. NON-BINDING LOSS & RESTITUTION RECOMMENDATIONS

1. The Government and ASHLEY OWENS recommend that loss and restitution attributable to ASHLEY OWENS' conduct is greater than \$550,000 but less than \$1,500,000. The government and ASHLEY OWENS understand that this recommendation is not binding on the Court or Probation Office.

2. ASHLEY OWENS retains the right to present evidence and argue at sentencing for any downward departure under the Guidelines or downward variance under 18 U.S.C. § 3553(a) that is appropriate.

F. COOPERATION

1. The Defendant agrees to cooperate fully and truthfully in the Government's investigation into this and any other criminal matter about which the defendant has knowledge.

2. Cooperation shall include, but is not limited to, testifying before the Grand Jury or at trial if requested. The Defendant understands that her failure to testify truthfully can result in the Defendant being prosecuted for perjury or giving false statements and in the government withdrawing from this plea agreement.

decision as to how much, if any, reduction in sentence is warranted because of that assistance rests solely with the Court.

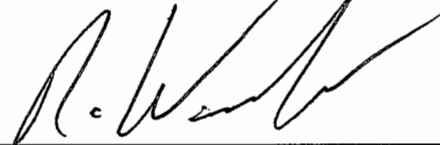
G. REINSTATEMENT OF ORIGINAL INDICTMENT

ASHLEY OWENS understands and agrees that should this plea be overturned for any reason at a later date, the Indictment, in its entirety, will be automatically reinstated without need for presentment to a Grand Jury or any motion or other action by the Government.

H. SIGNATURE OF ATTORNEY FOR THE DEFENDANT, THE DEFENDANT, AND THE ATTORNEY FOR THE GOVERNMENT

I have read this plea agreement and have discussed it fully with my client, ASHLEY OWENS. It accurately and completely sets forth the entire plea agreement. I concur in ASHLEY OWENS pleading guilty as set forth in this plea agreement.

Dated: 5/24/17



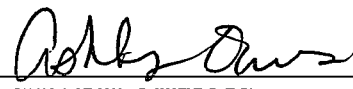
Russell A. Woodard, Jr.
Attorney for the Defendant

I have read this plea agreement and have discussed it with my attorney. I fully understand the plea agreement and accept and agree to it without reservation. I do this voluntarily and of my own free will. No threats have been made to me, nor am I under the influence of anything that could impede my ability to fully understand this plea agreement.

I affirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement.

I am satisfied with the legal services provided by my attorney in connection with this plea agreement and the matters related to this case.

Dated: 5/24/17



ASHLEY OWENS
Defendant

I accept and agree to this plea agreement on behalf of the United States of America.

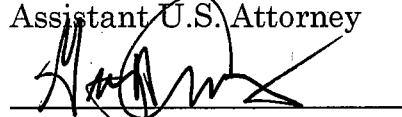
ALEXANDER C. VAN HOOK
Acting United States Attorney

Dated: 5/24/17

By:


EARL M. CAMPBELL
Assistant U.S. Attorney

By:


GRADY CROOKS
Assistant U.S. Attorney

48. **Specific Offense Characteristics:** The loss in this case is \$2,450,107.50. As the loss exceeded \$1,500,000, but is less than \$3,500,000, the offense level is increased by 16. U.S.S.G. §2B1.1(b)(I). +16
49. **Specific Offense Characteristics:** The offense involved 10 or more victims; therefore, the offense level is increased by 2. USSG §2B1.1(b)(2)(A). +2
50. **Specific Offense Characteristics:** Pursuant to USSG §2B1.1(b)(4), if the offense involved receiving stolen property, and the defendant was a person in the business of receiving and selling stolen property, the offense level is increased by 2 levels. Owens facilitated the receiving and selling of stolen vehicles by taking fraudulent documents to Simpson at Lagniappe Auto Title and then mailing “clean” documents back to Grant. Additionally, Owens was driving one of the stolen vehicles at the time she was initially arrested for the instant offense. +2
51. **Specific Offense Characteristics:** If (A) the defendant relocated, or participated in relocating, a fraudulent scheme to another jurisdiction to evade law enforcement or regulatory officials; or (C) the offense otherwise involved sophisticated means and the defendant intentionally engaged in or caused the conduct constituting sophisticated means. Owens, a resident of Louisiana, assisted Grant, a resident of Georgia, with creating fraudulent titles for cars stolen in multiple states. Grant would then obtain Vehicle Identification Numbers from totaled cars to have VIN plates created to conceal the VIN plates of the stolen cars. Grant also used her vehicle broker’s license, along with her personal business, Unique Solutions of Georgia, LLC 8332, to perpetuate and enable the criminal scheme. This sophisticated scheme, created, organized, and led by Grant, and facilitated by Owens and Simpson, aided and assisted in avoiding prosecution until after at least 104 vehicles were stolen and fraudulently registered. Therefore, the offense level is increased by 2. USSG §§2B1.1(b)(10) and comment. (n.(9)(B)). +2
52. **Specific Offense Characteristics:** If the offense involved an organized scheme to steal or to receive stolen (A) vehicles or vehicle parts, the offense level is increased by 2. The defendant was involved in a car theft ring that is responsible for 104 stolen cars with a loss amount totaling \$2,450,107.50. Therefore, the offense level is increased by 2. USSG §§2B1.1(b)(14) and comment. (n.11). +2
53. **Victim Related Adjustment:** None. 0
54. **Adjustment for Role in the Offense:** None. 0
55. **Adjustment for Obstruction of Justice:** None. 0
56. **Adjusted Offense Level (Subtotal):** 31
57. **Chapter Four Enhancement:** None. 0

58. **Acceptance of Responsibility:** The defendant has clearly demonstrated acceptance of responsibility for the offense. Accordingly, the offense level is decreased by two levels. USSG §3E1.1(a). -2

59. **Acceptance of Responsibility:** The defendant has assisted authorities in the investigation or prosecution of the defendant's own misconduct by timely notifying authorities of the intention to enter a plea of guilty. Accordingly, the offense level is decreased by one additional level. USSG §3E1.1(b). -1

60. **Total Offense Level:** 28

Offense Behavior Not Part of Relevant Conduct:

61. None known

PART B. THE DEFENDANT'S CRIMINAL HISTORY

62. An online search via ATLAS/NCIC, as well as direct research through local law enforcement and court systems, revealed Owens has the following criminal record.

Juvenile Adjudication(s)

63. None.

Adult Criminal Conviction(s)

64. None.

Criminal History Computation

65. The total criminal history score is zero. According to the sentencing table in USSG Chapter 5, Part A, a criminal history score of zero establishes a criminal history category of **I**.

Other Criminal Conduct

66. Owens has numerous traffic tickets. Most have been paid in full but others continue to remain open. She currently has pending warrants for several traffic tickets in Monroe City Court, and the 8th Judicial District Court in Winnfield, Louisiana.

Pending Charges

	<u>Date of Arrest</u>	<u>Charge</u>	<u>Agency</u>	<u>Disposition</u>
67.	03/19/2013 (Age 26)	Resisting by Interfering Docket #20133217	Monroe Police Department	10/11/13: FTA Warrant Issued.