

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF PENNSYLVANIA

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4 UNITED STATES OF AMERICA : CRIMINAL DOCKET FOR CASE
: NO. 16-258
5 -VS- :
:
6 TYREE MANSELL :

7 - - -

8 PHILADELPHIA, PA

9
10 DECEMBER 1, 2017

11 BEFORE HONORABLE CHIEF JUDGE PETRESE B. TUCKER

12 SENTENCING

13 APPEARANCES:

14 FOR THE GOVERNMENT: U.S. ATTORNEY'S OFFICE
BY: YVONNE O. OSIRIM, AUSA
15 AND SETH M. SCHLESSINGER, AUSA
615 CHESTNUT STREET, SUITE 1250
16 PHILADELPHIA, PA 19106

17
18 FOR THE DEFENDANT: ECKERT SEAMANS CHERIN & MELLOTT LLC
BY: KEVIN HARDEN, JR., ESQUIRE
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PHILADELPHIA, PA 19102
20

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22 LYNN MCCLOSKEY, RPR
23 OFFICIAL COURT REPORTER
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1 THE COURT: GOOD MORNING.

2 ALL COUNSEL: GOOD MORNING, YOUR HONOR.

3 THE COURT: YOU MAY BE SEATED.

4 THIS MATTER IS HERE FOR SENTENCING. ARE
5 WE READY TO PROCEED?

6 MS. OSIRIM: WE ARE, YOUR HONOR.

7 MR. HARDEN: YES, YOUR HONOR.

8 THE COURT: MR. HARDEN, YOU HAVE FILED ON
9 BEHALF OF YOUR CLIENT A SENTENCING MEMO. AND IN THAT
10 MEMO YOU HAVE OBJECTIONS TO THE GUIDELINE CALCULATIONS?

11 MR. HARDEN: YES, YOUR HONOR.

12 THE COURT: I WILL HEAR YOU ON THOSE
13 OBJECTIONS.

14 MR. HARDEN: THANK YOU, YOUR HONOR.
15 COURT'S INDULGENCE.

16 YOUR HONOR, WITH REGARD TO THE GUIDELINE
17 CALCULATIONS PROFFERED BY THE PROBATION DEPARTMENT AND
18 ADOPTED BY THE UNITED STATES ATTORNEY'S OFFICE, MYSELF,
19 ON BEHALF OF MR. MANSELL, WOULD LIKE TO LODGE SEVERAL
20 OBJECTIONS TO THE GUIDELINE CALCULATION.

21 FIRST, WE WOULD LIKE TO LODGE AN
22 OBJECTION WITH REGARD TO THE OBSTRUCTION OF JUSTICE
23 ADJUSTMENT. WITH REGARD TO ALL FIVE OF THE COUNTS OF
24 THE -- EXCUSE ME, ALL FIVE GROUPINGS OF THE -- ALL FIVE
25 GROUPS RELATED TO THE INDIVIDUAL COUNTS THAT MR. MANSELL

1 WAS FOUND GUILTY OF, ON EACH OF THOSE CASES THERE HAS
2 BEEN A TWO-LEVEL ADJUSTMENT WITH REGARD TO OBSTRUCTION
3 OF JUSTICE. I DO NOT BELIEVE THAT THE GOVERNMENT HAS
4 MADE OUT BY A PREPONDERANCE OF THE EVIDENCE THAT MR.
5 MANSELL OBSTRUCTED JUSTICE AT ALL. THERE WAS NO
6 EVIDENCE PROFFERED AT TRIAL WITH REGARD TO OBSTRUCTION
7 OF JUSTICE BY MR. MANSELL. THEY HAD INDIRECT EVIDENCE
8 THAT AN INDIVIDUAL INSIDE OF THE PRISON FACILITY
9 APPROACHED AN INDIVIDUAL AND SAID SOMETHING ABOUT MR.
10 MANSELL'S CRIMINAL CASE AND MATTERS. THERE WAS
11 ADDITIONAL EVIDENCE THAT MR. MANSELL MADE COMMENTS
12 THROUGH THE TOILET SYSTEM AT THE PRISON TO A
13 CO-DEFENDANT. I AM NOT SURE IF THAT EVIDENCE WAS
14 PROFFERED AT TRIAL, BUT NEVERTHELESS, THAT INFORMATION
15 DOES NOT AMOUNT TO AN OBSTRUCTION OF JUSTICE THAT WOULD
16 REQUIRE AN ADJUSTMENT ON ALL FIVE GROUPS.

17 MY NEXT OBJECTION IS WITH REGARD TO THE
18 USE OF A FIREARM ADJUSTMENT. THE JURY HEARD EVIDENCE OF
19 FIVE INDIVIDUALS -- EXCUSE ME, FIVE HOME INVASION
20 GUNPOINT ROBBERIES. AT THE CONCLUSION OF TRIAL, THEY
21 FOUND MR. MANSELL NOT GUILTY OF THREE FIREARM CHARGES,
22 ALL OF WHICH WOULD HAVE INCLUDED AIDING, ABETTING,
23 POSSESSING OR ANY POSSIBLE WAY FOR MR. MANSELL TO HAVE
24 POSSESSED A FIREARM DURING THESE HOME INVASION GUNPOINT
25 ROBBERIES. THE GOVERNMENT DID NOT CARRY THEIR BURDEN,

1 NOT EVEN AT THE LEVEL OF PREPONDERANCE OF EVIDENCE, WITH
2 REGARD TO MR. MANSELL'S POSSESSING A FIREARM DURING
3 THOSE THREE ROBBERIES.

4 FINALLY, ON THE LAST ROBBERY, BECAUSE MR.
5 MANSELL WAS CONVICTED OF THE 924(C), THERE IS NO
6 ADJUSTMENT BECAUSE IT'S ENCAPSULATED BY THE 924(C)
7 CONVICTION.

8 NEXT, YOUR HONOR, WE OBJECT TO THE ROLE
9 IN THE OFFENSE ADJUSTMENT. MR. MANSELL WAS ATTRIBUTED
10 AN ADJUSTMENT OF TWO LEVELS WITH REGARD TO HIS ROLE IN
11 THE OFFENSES. I DO NOT BELIEVE THAT THERE WAS EVIDENCE
12 SUFFICIENT TO MEET THE GOVERNMENT'S STANDARD WITH REGARD
13 TO MR. MANSELL BEING THE MASTERMIND BEHIND THESE
14 ROBBERIES. THERE WERE SEVERAL INSTANCES, INCLUDING
15 DURING MY CROSS EXAMINATION OF MR. STERLING WALLACE,
16 WHERE HE ACKNOWLEDGED THAT HE HAD ADMITTED -- EXCUSE ME,
17 ACKNOWLEDGED THAT HE HAD PARTICIPATED AND PLANNED IN
18 OTHER GUNPOINT ROBBERIES. DURING HIS TESTIMONY, HE
19 ACKNOWLEDGED THAT HE WAS THE ONE WHO HAD INVITED OTHERS
20 TO GUNPOINT ROBBERIES THAT THE, QUOTE, CONSPIRACY GROUP
21 PARTICIPATED IN. WHEN IT COMES TO TIMING, ORGANIZATION,
22 PLACE, SELECTION OF THE TARGETS, ALL OF THE INDIVIDUALS
23 INVOLVED IN THIS CONSPIRACY SHARED RESPONSIBILITY. AND
24 I CITE IN MY SENTENCING MEMORANDUM CASE LAW WITH REGARD
25 TO MR. MANSELL'S ROLE AND WHETHER OR NOT HIS ROLE WAS

1 SHARED OR WHETHER OR NOT HE ACTUALLY EXERCISED DOMINION,
2 CONTROL AND POWER OVER OTHER INDIVIDUALS INSIDE THE
3 CONSPIRACY.

4 YOUR HONOR, I HAVE A BRIEF OBJECTION WITH
5 REGARD TO THE INCLUSION OF RELEVANT CONDUCT. THE
6 GOVERNMENT PROFFERED EVIDENCE WITH REGARD TO AN
7 UNCHARGED HOME INVASION GUNPOINT ROBBERY WHERE A GUN WAS
8 POSSESSED. I WOULD LODGE A TYPICAL -- A GENERAL
9 OBJECTION UNDER THE FIFTH AND SIXTH AMENDMENT,
10 SPECIFICALLY CITING THE LIENS AND IN CASES THAT LEAD UP
11 TO A LIEN THAT SAID THAT ANY FACT FINDING BY A JUDGE
12 THAT WAS NOT NECESSARILY FOUND TO BE TRUE BY THE JURY,
13 THAT AFFECTS THE OUTCOME OF MY CLIENT'S SENTENCE TO THE
14 VIOLATION OF THE UNITED STATES CONSTITUTION. I WOULD
15 ADOPT THE ARGUMENTS THAT I MADE IN MY SENTENCING
16 MEMORANDUM WITH REGARD TO THE RELEVANT CONDUCT.

17 YOUR HONOR, THERE IS ONE OBJECTION THAT I
18 HAVE WITH REGARD TO GROUPING -- A GROUP ONE ROBBERY WITH
19 REGARD TO THE ABDUCTION ADJUSTMENT. IN MY MEMORANDUM, I
20 DID NOT SAY THAT THE ABDUCTION ADJUSTMENT SHOULD BE
21 MODIFIED WITH REGARD TO GROUP ONE. GROUP ONE WAS THE
22 ROBBERY INVOLVING AN INDIVIDUAL WHO WAS HELD DOWN, AND
23 THE JURY CONVICTED MR. MANSELL OF AN ELDERLY GENTLEMAN
24 WHO WAS THEN HELD IN HIS KITCHEN. THERE WAS NO
25 TESTIMONY WITH REGARD TO THE LOCATION OF THE KITCHEN,

1 VIS-A-VIS THE FRONT DOOR. THEREFORE, THE GOVERNMENT HAS
2 NOT PROFFERED EVIDENCE THAT THE INDIVIDUALS ACTUALLY
3 TRANSPORTED ANYWHERE. THERE IS CASE LAW THAT SAYS THAT
4 THERE ARE THREE LEVELS WITH REGARD TO AN ABDUCTION
5 ADJUSTMENT. FIRST, THAT THERE WAS A THREAT OF PHYSICAL
6 VIOLENCE; SECOND, THAT THERE WAS MOVEMENT BY THE
7 INDIVIDUAL TO TAKE THAT PERSON TO ANOTHER PLACE; AND
8 NUMBER THREE, THAT THAT WAS DONE TO FACILITATE OR ASSIST
9 IN THE COMMISSION OF THE CRIME. AND WHILE WE
10 ACKNOWLEDGE THAT THE GOVERNMENT HAS MET ITS BURDEN WITH
11 REGARD TO THE PHYSICAL VIOLENCE AND THE ASSISTING IN THE
12 FACILITATION OF THE CRIME, THERE HAS BEEN NO EVIDENCE
13 THAT THE KITCHEN WASN'T WHERE THE DOOR WAS WHEN THE --
14 THAT THE KITCHEN WAS FARTHER OFF FROM THE DOOR, AS IF
15 THEY HAD TO MOVE HIM THROUGH THE LIVING ROOM OR MOVE HIM
16 THROUGH THE DINING ROOM. IF THERE WAS A DE MINIMIS
17 AMOUNT OF MOVEMENT, THEN I WOULD ARGUE THAT THAT IS A
18 PHYSICAL RESTRAINT AND NOT AN ABDUCTION, THEREFORE
19 LEADING TO GROUP ONE BEING REDUCED BY ANOTHER TWO.

20 YOUR HONOR, THOSE ARE MY GENERAL
21 OBJECTIONS. I WOULD JUST NOTE THAT I DID NOT LODGE AN
22 INITIAL OBJECTION TO THE PRESENTENCE REPORT WITH THE
23 PROBATION OFFICER, BUT THE -- MANY OF MY OBJECTIONS ARE
24 THE RESULT OF ADDITIONS THAT OCCURRED IN THE
25 NOVEMBER 21ST REPORT, MANY OF -- WHICH ARE OUTLINED IN

1 THE PROBATION OFFICER'S ADDENDUM TO THE REPORT. AND
2 THOSE ARE MY OBJECTIONS, YOUR HONOR.

3 THE COURT: OKAY. I WILL HEAR FROM THE
4 GOVERNMENT.

5 MS. OSIRIM: HI, YOUR HONOR.

6 WE RECEIVED MR. HARDEN'S OBJECTIONS IN
7 THE FORM OF A SENTENCING MEMORANDUM YESTERDAY AT
8 4 O'CLOCK IN THE AFTERNOON. THOUGH I AM SURE THIS COURT
9 AND MR. HARDEN ARE AWARE THAT OBJECTIONS TO THE
10 PRESENTENCE INVESTIGATION REPORT ARE TO BE LODGED
11 14 DAYS AFTER RECEIVING THE DRAFT PURSUANT TO FEDERAL
12 RULE OF CRIMINAL PROCEDURE 32(F)(1). WE HAD AN
13 OPPORTUNITY TO REVIEW SOME OF THOSE OBJECTIONS AND TO
14 RESPOND ACCORDINGLY. BUT WE DO BELIEVE WE MAY NEED TO
15 PRESENT SOME EVIDENCE, IF THE COURT WOULD LIKE TO HEAR
16 IT, TO ENSURE THAT WE HAVE ESTABLISHED EACH OF THESE
17 ENHANCEMENTS BY A PREPONDERANCE OF THE EVIDENCE.

18 THE FIRST OF MR. HARDEN'S OBJECTIONS,
19 WHICH HE JUST ARTICULATED TO THE COURT, RELATES TO THE
20 OBSTRUCTION ENHANCEMENT. THIS COURT WILL REMEMBER THAT
21 THE GOVERNMENT FILED A MOTION TO ADMIT THREAT EVIDENCE,
22 WHICH I BELIEVE WAS GRANTED. WE DID NOT, IN FACT, HAVE
23 TO PROCEED ON THAT POINT AT THE TIME OF TRIAL BECAUSE WE
24 HAD AMPLE EVIDENCE ON THE RECORD TO DISCUSS THE ACTUAL
25 ROBBERIES AND THE USE OF THE FIREARMS IN THOSE

1 ROBBERIES. BUT IF THE COURT WOULD LIKE, WE ARE PREPARED
2 TO PRESENT TESTIMONY OF SPECIAL AGENT JOSEPH MILLIGAN ON
3 THREATS THAT WERE LODGED IN CONNECTION WITH THIS CASE
4 NOW, SO THAT THE COURT MAY HEAR SOME OF THAT EVIDENCE IN
5 MORE DETAIL THAN WAS ARTICULATED IN THE GOVERNMENT'S
6 MOTION, IF IT WOULD LIKE.

7 THE COURT: WILL THERE BE ANY OTHER
8 TESTIMONY OFFERED BY THE GOVERNMENT OF THAT WITNESS SO
9 THAT I CAN PUT THEM ON?

10 MS. OSIRIM: FOR THIS WITNESS, I DON'T
11 BELIEVE SO.

12 THE COURT: ALL RIGHT, I WILL HEAR FROM
13 THE WITNESS.

14 MS. OSIRIM: THANK YOU VERY MUCH.

15 THE DEPUTY CLERK: GOOD MORNING. CAN YOU
16 RAISE YOUR RIGHT HAND AND STATE YOUR NAME AND SPELL IT
17 FOR THE RECORD?

18 THE WITNESS: JOSEPH A. MILLIGAN,
19 M-I-L-L-I-G-A-N.

20 (WITNESS SWORN.)

21 DIRECT EXAMINATION

22 BY MS. OSIRIM:

23 Q. GOOD MORNING, SPECIAL AGENT MILLIGAN. COULD YOU
24 STATE YOUR NAME FOR THE RECORD?

25 A. JOSEPH A. MILLIGAN, JR., WITH THE FBI.

1 Q. AGENT MILLIGAN, HOW LONG HAVE YOU BEEN AN
2 OFFICER WITH THE FBI?

3 A. I HAVE BEEN WITH THE FBI FOR 18 YEARS.

4 Q. AND DURING THE COURSE OF THAT PERIOD, HAVE YOU
5 PARTICIPATED IN THE INVESTIGATION OF VIOLENT CRIME
6 CASES?

7 A. I HAVE.

8 Q. ARE YOU THE CASE AGENT RESPONSIBLE FOR THE
9 UNITED STATES VERSUS TYREE MANSELL?

10 A. I AM ONE OF TWO -- ACTUALLY, ONE OF THREE CASE
11 AGENTS ON THIS.

12 Q. AND DURING THE COURSE OF YOUR WORK IN THIS
13 INVESTIGATION, DID YOU HAVE AN OPPORTUNITY TO REVIEW
14 DOCUMENTATION PREPARED BY VARIOUS POLICE DEPARTMENTS AND
15 OTHER AGENCIES, COURT RECORDS, VICTIM STATEMENTS AND
16 WITNESS STATEMENTS?

17 A. I HAVE.

18 Q. HAVE YOU ALSO, DURING THE COURSE OF THIS
19 INVESTIGATION, SPOKEN WITH WITNESSES WHO WERE EITHER
20 VICTIMS OF THE CRIME OR OTHERWISE WITNESSES TO ELEMENTS
21 OF THE DEFENDANT'S CONDUCT?

22 A. YES.

23 Q. DURING THE COURSE OF YOUR DISCUSSIONS WITH
24 INDIVIDUALS IN CONNECTION WITH THIS INVESTIGATION, CAN
25 YOU TELL US WHAT, IF ANY, INFORMATION YOU LEARNED ABOUT

1 THREATS THAT WERE MADE DIRECTLY OR INDIRECTLY TO
2 INDIVIDUALS IN THIS CASE, OR OTHER STATEMENTS THAT MAY
3 HAVE BEEN MADE DIRECTLY OR INDIRECTLY TO POTENTIAL
4 WITNESSES IN THIS CASE TO OBSTRUCT OR OTHERWISE
5 INFLUENCE THEIR TESTIMONY?

6 A. SURE.

7 YOUR HONOR, DURING THE COURSE OF THIS
8 INVESTIGATION, WE INTERVIEWED SEVERAL CO-DEFENDANTS AND
9 WITNESSES RELATED TO THESE CRIMES. AND DURING THE
10 COURSE OF TALKING TO TWO, IN PARTICULAR, CO-DEFENDANTS,
11 JAMAIN WALLACE AND STERLING WALLACE, AND THIS HAPPENED
12 MORE THAN ONCE. IT WAS PRESENTED TO US THAT THEY WERE
13 APPROACHED IN THE FEDERAL DETENTION CENTER, WHERE,
14 THROUGH VARIOUS OTHER INMATES, THEY WERE TOLD EITHER TO
15 GET IN TOUCH WITH THE DEFENDANT HERE IN COURT, TYREE
16 MANSELL, THROUGH THE BOWL SYSTEM, WHERE THEY WOULD TALK
17 THROUGH THE PIPES OF THE TOILET SYSTEM OVER THERE. OR
18 THEY WERE ACTUALLY APPROACHED BY OTHER INMATES WHO WOULD
19 QUESTION BOTH JAMAIN WALLACE AND STERLING WALLACE ABOUT
20 COOPERATION IN THIS PARTICULAR INVESTIGATION.

21 A COUPLE OF EXAMPLES SUCH AS, I BELIEVE,
22 JAMAIN WALLACE WAS ASKED BY STERLING WALLACE ON THE BOWL
23 SYSTEM -- YOU KNOW, HE EXPRESSED CONCERN ABOUT ABDULLAH
24 HARTAGE, WHICH IS MR. MANSELL'S NEPHEW, AND HIS BROTHER
25 STERLING COOPERATING. ALSO STERLING, STERLING WALLACE,

1 WAS ALSO INSTRUCTED TO CONTACT MR. MANSELL THROUGH THE
2 BOWL SYSTEM. AND THE THREATS THERE WERE MORE OVERT.
3 ONE BEING, HEY, LISTEN, YOU DON'T SAY ANYTHING. AND I
4 AM PARAPHRASING, BUT IF HE DID TESTIFY, HE IS GOING TO
5 GET HURT.

6 HE WAS ALSO -- STERLING WALLACE WAS ALSO
7 APPROACHED BY, I BELIEVE, MR. MANSELL'S SISTER'S
8 HUSBAND. I AM NOT DEFINITE WHETHER OR NOT IT WAS TRULY
9 HER HUSBAND, BUT A DEFENDANT NAMED POO, HE GOES BY THE
10 NICKNAME POO. I BELIEVE HIS NAME IS CARLTON JOHNSON.
11 AND MR. WALLACE WAS APPROACHED BY HIM IN PRISON AND I
12 GUESS KIND OF THREATENED -- I NOTED MR. JOHNSON
13 SUPPOSEDLY SAID TO STERLING WALLACE, TAMIKA AND/OR SKY
14 ASKED, YOU KNOW, WHAT KIND OF LIFE WOULD MR. WALLACE
15 HAVE ONCE HE GETS BACK ON THE STREET IF HE IS GOING TO
16 GO IN THERE AND TALK ABOUT THE CASE.

17 SO THERE WAS A LOT OF THAT TYPE OF TALK.
18 I KNOW THERE WAS ALSO A THREAT FROM ANOTHER INMATE, I
19 BELIEVE HIS NAME WAS BRIAN HAIR, THAT -- AND I DON'T
20 KNOW THE EXACT WORDS, BUT THERE WAS A PHYSICAL THREAT
21 MADE TO STERLING WALLACE THAT IF HE WOULD TESTIFY IN
22 THIS UPCOMING CASE. SO THERE WAS A FEW OTHER EPISODES
23 SUCH AS THAT, BUT THERE WAS DEFINITELY CONTACT BETWEEN
24 THE WALLACE BROTHERS AND PEOPLE ON BEHALF OF MR.
25 MANSELL, AND MR. MANSELL HIMSELF MAKING THREATS.

1 Q. YOU MENTIONED CONVERSATIONS THAT TOOK PLACE
2 THROUGH THE BOWL. ARE YOU REFERRING TO THE TOILET BOWL
3 SYSTEM AT THE FDC?

4 A. YES.

5 Q. WERE THOSE CONVERSATIONS TAKING PLACE THROUGH
6 THE BOWL BECAUSE THERE WAS A SEPARATION ORDER BETWEEN
7 THE CO-DEFENDANTS IN THIS CASE?

8 A. YES.

9 Q. SO THEY WOULD NOT HAVE BEEN ABLE, NECESSARILY,
10 TO DIRECTLY SPEAK TO ONE ANOTHER, BUT THEY COULD
11 COMMUNICATE THROUGH THE TOILET BOWL SYSTEM, IS THAT
12 RIGHT?

13 A. THAT'S CORRECT.

14 Q. WHAT, IF ANY, INFORMATION DO YOU HAVE OF SOME OF
15 THESE THREATS THAT WERE COMING FROM OTHER INMATES IN THE
16 FDC WERE ACTUALLY DIRECTED BY THE DEFENDANT, MR.
17 MANSELL?

18 A. THEY WERE -- THEY -- I GUESS I DON'T KNOW IF
19 THERE IS ANY LANGUAGE IN ANY OF THE INTERVIEWS STATING
20 THAT THEY WERE DIRECTED, BUT OBVIOUSLY THEY WERE THERE
21 TO TALK TO THE WALLACES ABOUT A PARTICULAR THING, YOU
22 KNOW, WITH THIS CASE, SO, YOU KNOW.

23 Q. DURING THE COURSE OF YOUR CONVERSATIONS WITH
24 OTHER WITNESSES IN THIS CASE, SWAZETTE MANSELL, FOR
25 EXAMPLE, DID YOU RECEIVE ANY INFORMATION SUGGESTING OR

1 INDICATING THAT TYREE HAD DISCOURAGED THEIR
2 PARTICIPATION IN THIS CASE?

3 A. YES. THROUGH TALKING TO MS. MANSELL, YOU KNOW,
4 THERE WAS CONVERSATIONS THAT MS. MANSELL HAD WITH HER
5 BROTHER, IN PARTICULAR ABOUT HER SON IN COOPERATING AND
6 OBVIOUSLY DID NOT WANT THAT TO HAPPEN.

7 Q. OKAY.

8 A. THERE WAS ANOTHER WITNESS THAT I COULD TALK
9 ABOUT, TOO.

10 Q. YES, COULD YOU?

11 A. ONE OF THE WITNESSES ACTUALLY TESTIFIED IN THIS
12 CASE, MR. EDWARD SCOTT, WHO GOES BY THE NICKNAME HASEEM,
13 TESTIFIED AGAINST -- OR TESTIFIED IN THIS CASE. WE
14 ACTUALLY INTERVIEWED HIM AT THE TIME HE WAS IN
15 MONTGOMERY COUNTY PRISON. AND AT THAT TIME, MR. SCOTT
16 RELAYED TO US THAT, YOU KNOW, HE HAD A FORMER
17 GIRLFRIEND, AND I AM BLANKING ON THE NAME, I BELIEVE HER
18 FIRST NAME WAS CHANEL. BUT HE SAID THAT HE WAS TOLD BY
19 CHANNEL THAT MR. MANSELL ACTUALLY REACHED OUT TO HER ON
20 HER PHONE AND ASKED A LOT OF QUESTIONS ABOUT -- IN
21 GENERAL, BUT THEN SAID, HEY, I AM HEARING THERE IS
22 SOMEBODY IN MONTGOMERY COUNTY PRISON THAT IS COOPERATING
23 IN THIS MATTER AND HAD RELAYED THAT TO MR. SCOTT. MR.
24 SCOTT ALSO CALLED ME ON ONE FRIDAY AFTERNOON IN A PANIC
25 AND SAID THAT HE HAD BEEN RELEASED FROM MONTGOMERY

1 COUNTY PRISON. HE WAS APPROACHED ON THE STREET BY AN
2 UNKNOWN MALE HE DID NOT KNOW, WHO STARTED QUESTIONING
3 HIM ABOUT COOPERATING AGAINST SMASH.

4 Q. SMASH BEING TYREE MANSELL?

5 A. SMASH BEING TYREE MANSELL. AND MR. SCOTT WAS IN
6 A PANIC AND WAS VERY UPSET AND THOUGHT MAYBE -- YOU
7 KNOW, HE HAD ENTERTAINED MAYBE MOVING OR LEAVING THE
8 AREA BECAUSE HE WAS SO UPSET BY THIS ENCOUNTER.

9 Q. DID YOU EVENTUALLY COME TO LEARN THAT THERE MAY
10 HAVE BEEN SOME CONVERSATIONS, EVEN DURING THE COURSE OF
11 THIS TRIAL, BETWEEN THE DEFENDANT AND WITNESSES WHO WERE
12 CALLED TO TESTIFY?

13 A. I DID COME TO LEARN ABOUT OTHER -- ESPECIALLY
14 DURING THE COURSE OF THE TRIAL, WHERE BACK IN THE
15 HOLDING CELL AREA THERE WAS A CONVERSATION BETWEEN MR.
16 MANSELL AND HIS NEPHEW. I BELIEVE, ROUGHLY, THE THING
17 IS LIKE, HEY, I UNDERSTAND YOU HAVE TO KIND OF TAKE CARE
18 OF YOURSELF AND I KNOW THAT YOU ARE DOING IT. AND THEN
19 THERE WAS ALSO ANOTHER CONVERSATION THAT I AM LESS
20 FAMILIAR WITH THAT SUPPOSEDLY TOOK PLACE BETWEEN MR.
21 MANSELL AND MR. SCOTT THAT WASN'T AS UNDERSTANDING.

22 MS. OSIRIM: THANK YOU VERY MUCH. NO
23 FURTHER QUESTIONS.

24 THE COURT: CROSS-EXAMINE.

25 MR. HARDEN: THANK YOU, YOUR HONOR.

CROSS-EXAMINATION

BY MR. HARDEN:

Q. AGENT MILLIGAN, DID YOU DO ANY INVESTIGATION TO
CONFIRM ANY OF THE STATEMENTS THAT WERE MADE BY STERLING
WALLACE REGARDING OBSTRUCTION OF JUSTICE IN THIS CASE?

A. OTHER THAN TALKING TO HIM ABOUT THAT?

Q. YES.

A. NO, I THINK WE JUST DOCUMENTED IT.

Q. DID YOU DO ANY INVESTIGATION WITH REGARD TO ANY
STATEMENTS JAMAIN WALLACE MAY HAVE MADE ABOUT MR.
MANSELL?

A. NO. OTHER THAN JUST DOCUMENTING OUR INTERVIEW,
NO.

Q. YOU SAID THERE WERE THREE CASE AGENTS ON THIS
CASE, CORRECT?

A. DETECTIVE BARRY WILLIAMS, I CONSIDER, ALTHOUGH
HE IS NOT AN AGENT, WAS VERY INSTRUMENTAL IN THIS
INVESTIGATION, FROM THE MARPLE TOWNSHIP POLICE
DEPARTMENT.

Q. DO YOU RECALL ABOUT THE TIME FRAME THAT THESE
STATEMENTS BY MR. MANSELL WERE MADE OVER THE BOWL TO
JAMAIN AND/OR STERLING WALLACE?

A. SO YOUR QUESTION IS THE DATES?

Q. NOT THE SPECIFIC DATES, BUT I WILL FRAME IT THIS
WAY: WAS HE PRE-SUPERSEDING INDICTMENT OR

1 POST-SUPERSEDING INDICTMENT?

2 A. I AM NOT SURE, BUT THEY DID TAKE PLACE OVER A
3 LARGE PERIOD OF TIME. I WOULD SAY MORE THAN A YEAR THAT
4 SOME OF THESE INCIDENTS TOOK PLACE.

5 Q. ALL RIGHT. DID YOU EVER MAKE ANY ATTEMPTS TO
6 INTERVIEW ANY OF THE INDIVIDUALS THAT YOU SAY SPOKE ON
7 BEHALF OF MR. MANSELL?

8 A. NOT ANY OF THE INMATES, AND WE DIDN'T SPEAK TO
9 TAMIKA MANSELL.

10 Q. IN YOUR EXPERIENCE AS AN FBI AGENT, HAVE YOU
11 EVER CHARGED ANYONE WITH INTIMIDATING A WITNESS?

12 A. NO.

13 Q. ALL RIGHT. ARE YOU AWARE OF INDIVIDUALS IN YOUR
14 OFFICE CHARGING PEOPLE WITH INTIMIDATING WITNESSES WITH
15 REGARD TO THINGS THAT OCCUR IN THE FDC?

16 A. YES.

17 Q. AND YOU GUYS CAN TAP -- YOU HAVE ACTUALLY
18 MONITORED THE TOILET BOWLS -- NOT YOU SPECIFICALLY, BUT
19 PEOPLE FROM YOUR OFFICE HAVE MONITORED THE TOILET BOWLS
20 IN THE FDC SYSTEM, HAVEN'T THEY?

21 A. THEY HAVE.

22 Q. DID YOU EVEN DO ANY RESEARCH TO DETERMINE
23 WHETHER OR NOT THIS INDIVIDUAL, CARLTON JOHNSON, WAS
24 ACTUALLY RELATED TO MR. MANSELL?

25 A. I DID. I DID NOT GO -- I DIDN'T DELVE VERY

1 DEEPLY INTO IT, BUT THROUGH A PORTION OF MY
2 INVESTIGATION, I KIND OF UNDERSTOOD THE DYNAMICS OF THE
3 FAMILY.

4 Q. UNDERSTOOD. BUT WAS THERE A MARRIAGE LICENSE
5 EVER RECORDED? DID YOU EVER GO AND FIND OUT IF HE WAS
6 ACTUALLY RELATED BY BLOOD TO MR. MANSELL?

7 A. I DID NOT.

8 Q. YOU JUST CONFIRMED THAT THEY HAD A PRIOR HISTORY
9 TOGETHER, RIGHT?

10 A. THERE WAS A RELATIONSHIP, CORRECT.

11 Q. AND IT'S OUT THERE NOW, YOU ARE FAMILIAR WITH
12 THE FACT THAT MR. MANSELL HAS SPENT TIME IN FEDERAL
13 PRISON BEFORE, RIGHT?

14 A. YES.

15 Q. AND YOU KNOW THAT HE IS FAMILIAR WITH MANY
16 INDIVIDUALS WHO ARE IN THE FEDERAL DETENTION SYSTEM,
17 CORRECT?

18 A. MANY INDIVIDUALS? I AM SURE HE IS FAMILIAR WITH
19 A LEAST THE ONES THAT SPOKE ON HIS BEHALF AND THEN
20 TALKED TO THE WALLACE BROTHERS, YES.

21 Q. IN YOUR EXPERIENCE, IF THERE IS A SUPERSEDING
22 INDICTMENT FILED, AND CO-DEFENDANTS IN THAT SUPERSEDING
23 INDICTMENT ARE NOT NAMED, SO FOR EXAMPLE, IN THIS CASE,
24 MR. MANSELL IS INDICTED INITIALLY WITH HIS CO-DEFENDANT,
25 AND THEN AFTER THE SUPERSEDING INDICTMENT, HE WAS

1 INDICTED INDIVIDUALLY WHILE HIS CO-DEFENDANTS, WHO ALSO
2 PARTICIPATED IN THOSE CRIMES, WERE NOT INDICTED. HAVE
3 YOU SEEN THAT HAPPEN BEFORE?

4 MS. OSIRIM: OBJECTION, RELEVANCE.

5 THE COURT: OVERRULED.

6 THE WITNESS: I HAVE NOT SEEN THAT
7 PERSONALLY DONE BEFORE.

8 BY MR. HARDEN:

9 Q. SO YOU ARE SAYING THAT YOU HAVE NEVER SEEN AN
10 INDIVIDUAL, FOR EXAMPLE, COOPERATE AND THEREFORE NOT BE
11 CHARGED WITH CRIMES --

12 A. I'M SORRY, I MISUNDERSTOOD.

13 Q. -- THEY WERE COOPERATING ABOUT?

14 A. I MISUNDERSTOOD.

15 Q. THAT'S A TELLTALE SIGN THAT THAT INDIVIDUAL IS
16 COOPERATING, RIGHT?

17 A. YES.

18 Q. SO MR. MANSELL COULD LITERALLY DESCRIBE THE
19 CIRCUMSTANCES OF HIS CASE TO AN INDIVIDUAL AND THEY
20 WOULD UNDERSTAND THAT THERE IS A POSSIBILITY THAT HIS
21 CO-DEFENDANTS ARE COOPERATING, RIGHT?

22 A. SURE.

23 Q. WHAT IS THE GENERAL ATTITUDE ABOUT INDIVIDUALS
24 WHO COOPERATE IN THE FDC, BASED ON YOUR EXPERIENCE?

25 A. I'M SURE IT'S FROWNED UPON, ESPECIALLY IF YOU

1 ARE AN INMATE IN THE FDC.

2 Q. HAVE YOU EVER FIELDLED COMPLAINTS OF INDIVIDUALS
3 BEING INTIMIDATED JUST BECAUSE THEY ARE COOPERATORS
4 WITHOUT ANY CONNECTION TO AN INDIVIDUAL, AN INDIVIDUAL
5 SPURRING -- LIKE AN INDIVIDUAL CREATING -- ASKING FOR
6 THE INTIMIDATION TO HAPPEN?

7 A. I AM NOT SURE I AM FOLLOWING YOUR QUESTION.

8 Q. SO I WILL ASK YOU THIS: HAVE YOU EVER
9 EXPERIENCED AN INDIVIDUAL WHO MOVED TO PROTECTIVE
10 CUSTODY JUST BASED ON THE FACT THAT THEY ARE COOPERATING
11 WITH THE GOVERNMENT?

12 A. YES.

13 Q. WITHOUT ANY INDICIA OF ANYONE ACTUALLY
14 THREATENING THAT PERSON, IT'S JUST KNOWLEDGE THAT THAT
15 PERSON MAY BE IN DANGER?

16 A. YES.

17 Q. YOU HAVE SEEN THAT BEFORE, RIGHT?

18 A. YES.

19 Q. AND BASED ON YOUR INVESTIGATION, IS THERE ANY
20 DIRECT OR EVEN -- I WOULD SAY, IS THERE ANY DIRECT
21 EVIDENCE, NOT CIRCUMSTANTIAL -- DO YOU UNDERSTAND THE
22 DIFFERENCE BETWEEN THE TWO?

23 A. MM-HMM.

24 Q. SO FOR EXAMPLE, IT'S CIRCUMSTANTIAL THAT YOU
25 SAY, WELL, CARLTON JOHNSON IS SOMEHOW RELATED TO TYREE

1 MANSELL, THEREFORE, WHEN HE SPEAKS TO A WITNESS,
2 CIRCUMSTANTIALLY IT MAY BE RELATED TO MR. MANSELL,
3 RIGHT?

4 LET ME ASK IT THIS WAY: DO YOU HAVE ANY
5 EVIDENCE THAT TYREE MANSELL EVER HAD A CONVERSATION WITH
6 CARLTON JOHNSON?

7 A. NO.

8 Q. DO YOU HAVE EVIDENCE THAT TYREE MANSELL EVER
9 INSTRUCTED ANYONE EVER TO INTIMIDATE SOMEONE IN THIS
10 CASE?

11 A. OTHER THAN HIMSELF?

12 Q. OTHER THAN THAT.

13 A. OTHER THAN PEOPLE TELLING ME THAT, NO.

14 Q. AND WITH REGARD TO THE STATEMENTS HE MADE, YOU
15 PARAPHRASED AND SAID SOMEONE WAS GOING TO GET HURT,
16 RIGHT, THAT WAS ONE OF THE THINGS YOU SAID, RIGHT?

17 A. YES.

18 Q. WAS THERE A THREAT MADE THAT SAID YOU WERE GOING
19 TO GET HURT, DID HE SAY THAT?

20 A. IT WAS BEING SAID DIRECTLY BY WHAT MR. WALLACE
21 SAID AS BEING SAID DIRECTLY TO HIM, AND THE THREAT WAS
22 DIRECT, AS FAR AS I RECALL, WHAT WAS TOLD TO ME DURING
23 THE COURSE OF THE INTERVIEW.

24 Q. AND HE ALSO MADE A STATEMENT, LEAVE MY WIFE OUT
25 OF THIS, RIGHT, DO YOU REMEMBER THAT?

1 A. I DO REMEMBER THAT.

2 Q. AND THERE WAS ALSO AN ALLEGATION THAT -- YOU
3 SAID SOMETHING ABOUT HIM MAKING STATEMENTS TO SWAZETTE.
4 WHEN DID THAT HAPPEN?

5 A. THAT WHO MADE STATEMENTS?

6 Q. MR. MANSELL MADE STATEMENTS TO SWAZETTE MANSELL;
7 HIS SISTER, WHEN DID THAT HAPPEN?

8 A. DURING THE COURSE OF TELEPHONE CALLS THAT SHE
9 WOULD HAVE WITH HIM, THAT TYREE WOULD CALL SWAZETTE.

10 Q. AND WHEN WAS THAT REPORTED?

11 A. I AM NOT SURE. I DON'T HAVE ANY OF THE REPORTS
12 IN FRONT OF ME, BUT I REMEMBER HAVING CONVERSATIONS WITH
13 SWAZETTE ABOUT THAT.

14 Q. WAS THAT DOCUMENTED ANYWHERE?

15 A. I AM NOT SURE IF IT WAS DOCUMENTED.

16 Q. ALL RIGHT. IF I TOLD -- COULD YOU BE MISTAKEN
17 ABOUT HER SAYING THAT HE MADE THREATS CONCERNING
18 ABDULLAH HARTAGE?

19 A. I DON'T KNOW IF I SAID "THREATS." I SAID THAT
20 THEY HAD CONVERSATIONS, AND ESPECIALLY WHEN IT CAME TO
21 HER SON, THAT HE SHOULD NOT BE TESTIFYING.

22 Q. AND CORRECT ME IF I'M WRONG, THE TESTIMONY AT
23 TRIAL AND THE EVIDENCE THAT YOU REVIEWED REVEALED THAT
24 MR. MANSELL MADE A PAYMENT TO MS. SWAZETTE MANSELL TO
25 HIRE A LAWYER FOR HER SON, RIGHT?

1 A. THAT'S CORRECT.

2 Q. WHEN SHE FIRST SPOKE TO INVESTIGATORS IN THIS
3 CASE, SHE SAID SHE HAD NOT SPOKEN TO HER BROTHER,
4 CORRECT; DO YOU RECALL THAT?

5 A. NO, I DON'T RECALL THAT.

6 Q. ALL RIGHT. WITH REGARD TO EDWARD KASEEM SCOTT,
7 YOU SAID THAT WHEN HE WAS INTERVIEWED IN MONTGOMERY
8 COUNTY, A FORMER GIRLFRIEND HAD TOLD HIM THAT PEOPLE
9 WERE ASKING QUESTIONS ABOUT HIS LEVEL OF COOPERATION;
10 THAT'S WHAT YOU TESTIFIED TO, RIGHT?

11 A. NO, WHAT I TESTIFIED TO WAS THAT -- AND THIS IS
12 PROTRACTED OUT A LITTLE BIT, BUT HE HAD TALKED TO, I
13 GUESS, HIS FORMER GIRLFRIEND, WHO SAID THAT SHE GOT A
14 PHONE CALL DIRECTLY FROM TYREE --

15 Q. TYREE?

16 A. TYREE.

17 Q. AND WAS THERE A THREAT RELATED?

18 A. THERE WASN'T A THREAT, BUT THE --

19 Q. BUT WHAT?

20 A. -- THE -- IT WAS -- AS FAR AS MR. SCOTT FELT,
21 THE GIRL WAS VERY UPSET THAT TYREE WOULD, ONE, BE
22 CALLING HER OUT OF THE BLUE AND THEN SAYING SOMETHING,
23 YOU KNOW, TO THE POINT THAT, HEY, I AM HEARING SOMEBODY
24 IN MONTGOMERY COUNTY PRISON THAT IS COOPERATING. AND
25 SHE WAS CERTAINLY FEARFUL WHEN THAT WAS SAID TO HER.

1 Q. DID YOU HAVE ANY -- BASED ON YOUR INVESTIGATION
2 AND YOUR KNOWLEDGE OF THIS CONVERSATION, AT ANY TIME DID
3 TYREE SAY THAT SOMEBODY SHOULD NOT COOPERATE?

4 A. IN THAT --

5 Q. IN THAT SPIRIT OF THAT CONVERSATION?

6 A. -- CONTEXT, NO.

7 Q. YOU HAVE NO INFORMATION ABOUT THAT?

8 A. NOT WITH THAT PARTICULAR INCIDENT, NO.

9 Q. ALL RIGHT. BUT YOU MENTIONED IT JUST TO SAY
10 THAT TYREE MADE A PHONE CALL AND SAID THAT HE HEARD
11 SOMETHING. IS THAT OBSTRUCTION OF JUSTICE, IN YOUR
12 OPINION?

13 A. YEAH, YES. YEAH. THAT'S REACHING OUT TO
14 SOMEBODY. WHY WOULD YOU DO THAT, AND HE DOES NOT REALLY
15 KNOW THIS GIRL, AND CALL UP AND START ASKING QUESTIONS
16 AND THEN MAKE A STATEMENT LIKE THAT, OF COURSE.

17 Q. YOU HEARD SOMEONE WAS COOPERATING IN MONTGOMERY
18 COUNTY, GOT IT. AND THEN YOU SAID SCOTT CALLED IN A
19 PANIC AND SAID THAT AN UNKNOWN MALE APPROACHED HIM TO
20 SAY THAT HE WAS COOPERATING AGAINST MR. MANSELL?

21 A. ASKED WHETHER HE WAS.

22 Q. ASKED WHETHER HE WAS COOPERATING AGAINST MR.
23 MANSELL?

24 A. AGAINST SMASH.

25 Q. AGAINST SMASH. AND NO THREAT, RIGHT?

1 A. THERE WAS NO THREAT AS FAR AS HIM SAYING TO HIM,
2 HEY, YOU ARE GOING TO GET HURT, NO, BUT THE FACT THAT HE
3 WAS BEING ASKED ABOUT THIS THING, DID NOT KNOW THE
4 PERSON AT ALL, HE DEFINITELY TOOK THAT AS A THREAT.

5 Q. WHEN YOU SAY HE TOOK IT AS A THREAT, DID HE USE
6 THE WORDS, I FELT THREATENED? DID YOU DOCUMENT THAT?

7 A. HE SURE DID. HE WAS SCARED TO DEATH WHEN HE
8 TALKED TO ME.

9 Q. DID HE SAY THOSE WORDS? YOU SAID THAT --

10 A. I TOOK DOWN A STATEMENT OF WHERE HE EXPLAINED TO
11 ME WHAT HAPPENED.

12 Q. ALL RIGHT. AND YOU SAID BASED --

13 A. AND I FELT IT IMPORTANT ENOUGH TO DOCUMENT WHAT
14 HE TOLD ME.

15 Q. ALL RIGHT. AND YOU SAID THAT HE FELT SCARED?

16 A. HE WAS, HE WAS SCARED.

17 Q. OKAY. BASED ON YOUR OBSERVATIONS?

18 A. BASED ON HIS TONE, BASED ON WHETHER OR NOT HE
19 SHOULD LEAVE THE AREA, WHAT CAN WE DO TO PROTECT HIM.

20 Q. UNDERSTOOD. AND DID HE GIVE YOU ANY INFORMATION
21 WITH REGARD TO WHO SENT THAT PERSON?

22 A. NO.

23 Q. DID YOU DO ANY INVESTIGATION TO FIND OUT WHO WAS
24 THAT PERSON?

25 A. NO. OTHER THAN, YOU KNOW, A VERY NONDESCRIPT,

1 YOU KNOW, IDENTITY OF THE PERSON, HOW WOULD I HAVE FOUND
2 OUT WHO THAT PERSON WAS? HE DIDN'T KNOW THE PERSON.

3 Q. AND THEN YOU BRING UP A CONVERSATION WHERE MR.
4 MANSELL TELLS HIS NEPHEW IN THE HOLDING CELL, I
5 UNDERSTAND YOU HAVE TO DO WHAT YOU HAVE TO DO TO TAKE
6 CARE OF YOURSELF, OR SOMETHING LIKE THAT?

7 A. AND I WAS TAKING LIBERTIES AS TO WHAT THAT
8 CONVERSATION WAS, BUT THAT WAS SUPPOSEDLY THE GIST OF
9 THE CONVERSATION.

10 Q. SO THIS CONVERSATION WAS MENTIONED WITH THE
11 INTENT -- WHAT WAS YOUR INTENT IN MENTIONING THAT
12 CONVERSATION, BECAUSE IT WAS ASKED ABOUT?

13 A. WELL, THE FACT THAT MR. MANSELL HAS REACHED OUT
14 TO MANY, MANY PEOPLE ALONG THE COURSE OF THIS
15 INVESTIGATION.

16 Q. IS HE NOT ALLOWED TO --

17 MR. HARDEN: I WILL NOT EVEN ASK THAT
18 QUESTION, YOUR HONOR. THANK YOU, AGENT.

19 THE COURT: ANY REDIRECT?

20 MS. OSIRIM: YES, YOUR HONOR.

21 REDIRECT

22 BY MS. OSIRIM:

23 Q. SPECIAL AGENT MILLIGAN, YOU, ALONG WITH SPECIAL
24 AGENT LOCKHART, PREPARED A NUMBER OF FBI 302'S IN THIS
25 CASE, CORRECT?

1 A. THAT'S CORRECT.

2 Q. AND THOSE ARE REPORTS DOCUMENTING CONVERSATIONS
3 THAT YOU HAD WITH WITNESSES AND OTHER INDIVIDUALS WHO
4 WERE PART OF THE INVESTIGATION OF THIS CASE, IS THAT
5 RIGHT?

6 A. THAT'S CORRECT.

7 Q. DURING ONE OF THOSE FBI 302'S, ON FEBRUARY 11,
8 2016, YOU MET WITH STERLING WALLACE, DO YOU RECALL THAT
9 MEETING?

10 A. YEAH, THERE WAS A FEW OF THEM, BUT YES.

11 Q. YES. DURING THIS MEETING, YOU PREPARED -- YOU
12 AND SPECIAL AGENT LOCKHART PREPARED AN FBI 302 IN WHICH
13 WALLACE DISCUSSED HAVING SPOKEN WITH TYREE MANSELL
14 THROUGH THE BOWL, AND THAT DURING THAT CONVERSATION,
15 MANSELL CONFIRMED THAT HE WAS SPEAKING TO WALLACE FIRST
16 TO MAKE SURE, AND THEN STATED, I DON'T CARE WHAT YOU DO,
17 YOU BETTER NOT TELL THEM NOTHING, YOU BETTER NOT GET MY
18 WIFE INVOLVED. DO YOU REMEMBER THAT?

19 A. I DO.

20 Q. DO YOU REMEMBER RECORDING THAT WALLACE RELAYED
21 THAT MANSELL HAD SAID SPECIFICALLY TO HIM, YOU BETTER
22 NOT TELL THEM NOTHING OR YOU WILL GET HURT?

23 A. YES.

24 Q. YOU PREPARED ADDITIONAL FBI 302'S IN CONNECTION
25 WITH THIS CASE, IS THAT CORRECT?

1 A. THAT'S CORRECT.

2 Q. AND IN AN ADDITIONAL CONVERSATION THAT YOU HAD
3 WITH STERLING WALLACE, WHO TESTIFIED IN THIS CASE, HE
4 REPORTED TO YOU THAT HE, IN ADDITION TO SPEAKING WITH
5 TYREE MANSELL ON THE BOWL, MR. MANSELL ASKED WALLACE,
6 WHAT IS GOING ON WITH YOU, AND ASKED ABOUT -- AND TOLD
7 HIM TO KEEP HIS MOUTH SHUT; DO YOU REMEMBER THAT?

8 A. YES.

9 Q. AND THAT HE ALSO REPORTED IN AN ADDITIONAL
10 PROFFER SESSION WITH THE GOVERNMENT HAVING BEEN -- AND
11 THESE ARE THE WORDS THAT WERE USED, THREATEN BY MANSELL
12 THROUGH OTHER PRISONERS AT THE FDC, IS THAT CORRECT?

13 A. THAT'S CORRECT.

14 Q. AND ONE OF THOSE YOU DISCUSSED EARLIER COMING
15 FROM BRIAN HAIR, WHO WAS HOUSED IN AN AREA WHERE HE HAD
16 ACCESS TO STERLING WALLACE, IS THAT CORRECT?

17 A. THAT'S CORRECT.

18 Q. AND HE SAID THAT HE WOULD PUT HIS HANDS ON
19 STERLING IF HE WAS GOING TO TESTIFY AGAINST SMASH, IS
20 THAT CORRECT?

21 A. YES.

22 Q. AND ANOTHER ONE OF THOSE PERSONS WAS POO, WHO
23 YOU JUST MENTIONED, WHO SAID THAT HE WAS CHERYL
24 MANSELL'S HUSBAND AND THAT HE SAID THAT SKY SAID
25 SPECIFICALLY, WHAT TYPE OF LIFE, JJ, DO YOU THINK YOU

1 ARE GOING TO HAVE WHEN YOU GET OUT IF YOU TESTIFY, IS
2 THAT CORRECT?

3 A. YES.

4 MS. OSIRIM: YOUR HONOR, I HAVE
5 ADDITIONAL EVIDENCE TO PRESENT, BUT NOT THROUGH SPECIAL
6 AGENT MILLIGAN.

7 THE COURT: OKAY. ANY OTHER QUESTIONS OF
8 SPECIAL AGENT MILLIGAN?

9 MR. HARDEN: NOT AT THIS TIME, YOUR
10 HONOR, THANK YOU.

11 THE COURT: OKAY, THANK YOU.

12 OKAY.

13 MS. OSIRIM: YOUR HONOR, DURING THE TRIAL
14 IN THIS CASE, WE HEARD DIRECT TESTIMONY FROM THE
15 DEFENDANT'S SISTER, SWAZETTE MANSELL, WHO IS ALSO THE
16 MOTHER OF THE 17-YEAR-OLD DRIVER, ABDULLAH HARTAGE. AND
17 DURING HER TESTIMONY, SHE EXPLICITLY STATED ON, I
18 BELIEVE THIS WAS JULY 13TH, TRANSCRIPT PAGE 80, LINES 13
19 THROUGH 21, THAT SHE HAD COMMUNICATED WITH HER BROTHER,
20 THAT HE HAD TOLD HER HE DIDN'T WANT HER TALKING TO THE
21 COPS, THAT HE HAD SAID TO HER HE WOULD TRY TO HELP HER
22 SON OUT INSTEAD, AND HE SAID, JUST DON'T COMMUNICATE
23 WITH THE COPS, DON'T PUT MY NAME IN IT.

24 HER TESTIMONY CLEARLY SHOWED THE
25 DEFENDANT'S EFFORTS TO TRY TO INFLUENCE WHAT SHE AND/OR

1 HER SON WOULD SAY AT ANY FUTURE TRIAL AGAINST THE
2 DEFENDANT. AND THESE CONSTITUTE ATTEMPTS TO SUBORN
3 PERJURY. SHE WAS ONE OF THE WITNESSES, AND TO THREATEN
4 SUBMITTING OR OTHERWISE UNLAWFULLY INFLUENCING THEIR
5 TESTIMONY AT THE TIME OF TRIAL.

6 THE COURT: OKAY.

7 MS. OSIRIM: I THINK THAT THE EVIDENCE
8 PROFFERED BY MR. MILLIGAN ABOUT THE VARIOUS
9 CONVERSATIONS THAT MANSELL HIMSELF HAD DIRECTLY WITH JJ
10 AND STERLING WALLACE WHILE INCARCERATED AT THE FDC
11 DURING THE TIME THE SEPARATION ORDERS WERE IN PLACE, AS
12 WELL AS THE INFORMATION THE AGENT PROFFERED ABOUT
13 CONVERSATIONS THAT THIRD PARTIES HAD WITH WITNESSES IN
14 THIS CASE, BOTH STERLING, JAMAIN, AS WELL AS EDWARD
15 SCOTT, INDICATES TO THE COURT THE LEVEL OF OBSTRUCTION
16 IN WHICH THE DEFENDANT PARTICIPATED IN TRYING TO
17 INFLUENCE THE TESTIMONY OF THOSE WHO HAD KNOWLEDGE OF
18 HIS OFFENSES IN THIS CASE.

19 THE COURT: OKAY. DOES THE DEFENSE HAVE
20 ANYTHING TO ADD?

21 MR. HARDEN: YOUR HONOR, I WOULD JUST
22 FIRST REMIND THE COURT THAT THERE HAS BEEN NO DIRECT
23 TESTIMONY WITH REGARD TO ANY INTIMIDATION AND THREATS,
24 EXCEPT FOR THE SWAZETTE STATEMENT. MR. MANSELL -- I
25 UNDERSTAND THAT THIS IS A SENTENCING SO THE

1 CONFRONTATION CLAUSE ISSUE, BUT I WOULD SAY THAT HAVING
2 AN AGENT GET UP AND TALK ABOUT THREATS THAT WERE MADE TO
3 ANOTHER INDIVIDUAL THAT CONSTITUTES HEARSAY, I KNOW
4 HEARSAY IS ADMISSIBLE AT SENTENCING, BUT I WOULD AT
5 LEAST LODGE THAT OBJECTION.

6 AND FINALLY, TO SAY THAT -- I MEAN, YOU
7 HEARD IT FROM AGENT MILLIGAN, THERE ARE -- MANY OF THESE
8 CONVERSATIONS ARE NOT OBSTRUCTION OF JUSTICE. I CAN
9 UNDERSTAND A DIRECT THREAT BEING CATEGORIZED AS
10 OBSTRUCTION OF JUSTICE, BUT AN INDIVIDUAL IS ALLOWED TO
11 INQUIRE ABOUT THE STATUS OF THEIR CASE. AN INDIVIDUAL
12 SAYING, YOU KNOW, HEY, I HEARD YOU'RE A WITNESS AGAINST
13 SUCH-AND-SUCH IN A MURDER CASE. WELL, THAT'S A VERY
14 SCARY SITUATION, BUT GUESS WHAT, IT'S FACTUAL. I MEAN,
15 BASED ON THIS CONVERSATION, THE PROSECUTOR CALLING
16 SOMEBODY AND ASKING THEM TO COME IN AND TESTIFY IS
17 SOMETHING THAT COULD TERRIFY SOMEONE, AND THAT'S JUST
18 NOT OBSTRUCTION, REGARDLESS OF THE FACT THAT MR. MANSELL
19 IS THE DEFENDANT. AGAIN, I FEEL LIKE THE GOVERNMENT,
20 NUMBER ONE, IS TRYING TO TAKE THE FACT THAT MR. MANSELL
21 IS INCARCERATED WITH INDIVIDUALS WHO ARE COOPERATING
22 AGAINST HIM, AND THE FACT THAT INDIVIDUALS INSIDE THE
23 FEDERAL DETENTION CENTER, ONCE YOU ARE -- THERE IS AN
24 ENTIRE CULTURE, THIS ANTI-SNITCHING CULTURE, THAT THEY
25 ARE NOW SAYING THAT JUST BECAUSE MR. MANSELL KNOWS

1 PEOPLE WHO MAY HAVE HEARD ABOUT THE STATUS OF HIS CASE,
2 THEREFORE, HE IS ENTITLED TO A TWO-LEVEL ADJUSTMENT UP.

3 WITH REGARDS TO DIRECT THREATS, THE
4 DIRECT THREATS, EVERYTHING THAT -- I BELIEVE ALL THE
5 DIRECT EVIDENCE WITH REGARD TO DIRECT THREATS HAVE BEEN
6 PRE-SUPERSEDING INDICTMENT. THEREFORE, I WOULD ASK THAT
7 THE COURT LIMIT -- IF YOU ARE TALKING ABOUT DIRECT
8 THREATS, LIMIT THE OBSTRUCTION OF JUSTICE WITH REGARD TO
9 THE INVESTIGATION THAT MR. MANSELL KNEW WAS ONGOING AT
10 THE TIME. THAT WAS AN INVESTIGATION INTO THE ROBBERY
11 THAT IS ATTRIBUTED TO GROUP NUMBER FIVE. WITH REGARD TO
12 GROUP ONE THROUGH FOUR, MR. MANSELL HAD NO IDEA THAT
13 THERE WERE ADDITIONAL -- THAT THERE WAS AN ADDITIONAL
14 INVESTIGATION GOING ON INTO ADDITIONAL ROBBERIES. AND I
15 BELIEVE THAT THE STANDARD -- AND I AM JUST CARRYING WHAT
16 I HAVE IN MY SENTENCING MEMORANDUM. THERE IS PRECEDENT
17 WITH REGARD TO AN INDIVIDUAL NOT BEING HELD ACCOUNTABLE
18 FOR OBSTRUCTION OF JUSTICE WITH REGARD TO
19 INVESTIGATIONS. I BELIEVE THE GOVERNMENT WILL PROBABLY
20 ARGUE THAT THIS WAS AN ONGOING INVESTIGATION ONCE THE
21 ARREST OCCURS, THEREFORE, HE SHOULD HAVE KNOWN THERE WAS
22 AN INVESTIGATION. MY ARGUMENT IS THAT -- THE FACT THAT
23 HE WAS ARRESTED ON ONE INDICTMENT WHEN THESE DIRECT
24 THREATS WERE ALLEGEDLY MADE BY MR. MANSELL, AND THE FACT
25 THAT IF YOU LOOK AT ALL THE GOVERNMENT'S EVIDENCE, THERE

1 WAS NEVER -- AFTER THE SUPERSEDING INDICTMENT, THERE IS
2 NO ALLEGATION OF A DIRECT THREAT BY MR. MANSELL AGAINST
3 ANYONE.

4 MS. OSIRIM: YOUR HONOR, MAY I RESPOND
5 BRIEFLY?

6 THE COURT: YES.

7 MS. OSIRIM: I UNDERSTAND THAT THE
8 DEFENSE THINKS IT'S APPROPRIATE TO COMPLAIN ABOUT HAVING
9 USED SPECIAL AGENT MILLIGAN TO PROFFER INFORMATION THAT
10 OTHERWISE COULD HAVE BEEN TESTIFIED TO DIRECTLY BY
11 WITNESSES. WE ARE DOING THIS IN ORDER TO PROCEED WITH
12 THIS HEARING TODAY BECAUSE WE HAVE SEVERAL VICTIMS
13 PRESENT AND DID NOT WANT TO RESCHEDULE, BUT WE RECEIVED
14 A NOTICE OF THESE OBJECTIONS YESTERDAY AT 4 P.M. SO WE
15 ARE DOING THE BEST THAT WE CAN TO RESPOND TO THEM NOW.

16 MR. HARDEN'S CONTENTION THAT TYREE
17 MANSELL HAD NO IDEA THAT THE GOVERNMENT WAS
18 INVESTIGATING THE SPREE OF ROBBERIES IN WHICH HE
19 INITIATED IS COMPLETELY FALSE AND REALLY DUBIOUS AS A
20 CLAIM. HE WAS THREATENING EDWARD SCOTT, WHOSE
21 INVOLVEMENT WAS NOT THE JUNE 15TH ROBBERY THAT HE WAS
22 ARRESTED ON, BUT IN DRIVING TO AND IDENTIFYING A HOME IN
23 THE APRIL 20TH ROBBERY, WHICH WAS NOT INITIALLY CHARGED
24 IN THIS CASE UNTIL THE SUPERSEDING INDICTMENT.

25 THE DEFENDANT WAS REACHING OUT TO HIS

1 CO-DEFENDANTS, REACHING OUT TO EDWARD SCOTT, REACHING
2 OUT TO SWAZETTE MANSELL, AND INDIRECTLY ABDULLAH
3 HARTAGE, IN AN EFFORT TO CONTAIN THE INFORMATION THAT
4 THEY WOULD PROVIDE BECAUSE HE KNEW HIS EXPOSURE ON A
5 SERIES OF ROBBERIES, NOT SIMPLY ONE ROBBERY. AND THAT
6 IS WHY WE BELIEVE THIS TWO-LEVEL ENHANCEMENT IS
7 APPROPRIATE ON EACH OF THE GROUPS IN WHICH IT HAS BEEN
8 INCLUDED BY THE PROBATION OFFICER.

9 THE COURT: OKAY. I WILL HEAR THE
10 GOVERNMENT IN RESPONSE TO THE FIREARM ADJUSTMENT.

11 MS. OSIRIM: CERTAINLY, YOUR HONOR.

12 IF I UNDERSTAND IT CORRECTLY, THE DEFENSE
13 IS OBJECTING TO THE PROBATION OFFICER FINDING THAT THE
14 SIX-LEVEL ENHANCEMENT FOR OTHERWISE USING A FIREARM
15 DURING THE COMMISSION OF THESE ROBBERIES BECAUSE THE
16 DEFENDANT WAS ACQUITTED OF THREE OF THESE FOUR CHARGED
17 OFFENSES. AS THE COURT IS AWARE, THE THIRD CIRCUIT AND
18 THE SUPREME COURT BOTH PERMIT THE DISTRICT COURT TO
19 CONSIDER CONDUCT UNDERLYING ACQUITTED CONDUCT AT THE
20 TIME OF SENTENCING FOR PURPOSES OF ENHANCEMENT AND FOR
21 PURPOSES OF UPWARD DEPARTURES.

22 IN THIS CASE, THE COURT HAS AMPLE
23 EVIDENCE IN WHICH TO CONCLUDE THAT A FIREARM WAS USED
24 DURING THE COMMISSION OF THOSE OFFENSES. NOT ONLY DID A
25 COOPERATOR, STERLING WALLACE, TESTIFY IN THIS CASE ABOUT

1 THE USE OF FIREARMS DURING THE COMMISSION OF THE
2 APRIL 20TH, THE MAY 7TH, THE MAY 19TH AND THE JUNE 15TH
3 ROBBERY, HE TESTIFIED ABOUT THE THEFT OF AN ACTUAL
4 FIREARM FROM THE HOME ON F STREET IN AN UNCHARGED
5 ROBBERY, WHICH WAS THEN USED TO THREATEN THE VICTIMS IN
6 THE FINAL HOME INVASION ON JUNE 15TH.

7 ADDITIONALLY, THIS COURT HAS HEARD
8 TESTIMONY FROM EACH OF THE VICTIMS IN THIS CASE, WHO
9 TALKED ABOUT HOW TERRIFIED THEY WERE WHEN THEY WERE
10 CONFRONTED AT GUNPOINT WITH THESE ROBBERS, AND WHO WERE
11 LED TO DIFFERENT PARTS OF THEIR HOMES TO OPEN SAFES, ET
12 CETERA, BY A POINTED SHOTGUN.

13 IF THE COURT WOULD LIKE, I CAN POINT YOU
14 TO SPECIFIC AREAS IN THE TRANSCRIPTS WHERE EACH OF THESE
15 WITNESSES HAS TESTIFIED ABOUT THESE GUNS IN THIS CASE.

16 THE COURT: PLEASE DO.

17 MS. OSIRIM: OKAY. BING ZHENG TESTIFIED
18 ON JULY 12, 2017, THE TRIAL TRANSCRIPT PAGE 141, THAT --
19 BY THE TIME THAT SHE REALIZED SOMEONE WAS IN HER HOME,
20 THERE WAS SOMEONE ALREADY HOLDING THE GUN AT HER.

21 ON PAGE 142, SHE IS ASKED ABOUT WHERE SHE
22 WAS STANDING WHEN SHE WAS SHOWN A PHOTOGRAPH AT THE TIME
23 THAT SHE SAW THE GUN, AND SHE EXPLAINED THAT SHE WAS
24 STANDING IN HER LIVING ROOM.

25 AT PAGE 143, LINE 8, SHE SAYS, AT THE

1 TIME HE WAS HOLDING THE GUN AT ME, HE ASKED ME TO GO
2 OVER AND PICK UP MY CHILD AND HAVE BOTH OF US SIT ON THE
3 SOFA AND NOT MOVE. IF THE COURT REMEMBERS, MS. ZHENG
4 WAS ALONE AT THE TIME IN HER HOME WITH HER ONE-YEAR-OLD
5 INFANT.

6 THERE IS FURTHER TESTIMONY ON PAGE 165,
7 TESTIMONY FROM MR. LIU, WHO STATED, WE DIDN'T HEAR MUCH
8 NOISE. I FLIPPED OPEN THE BLANKET BRIEFLY -- I BELIEVE
9 THIS IS MS. WANG. I SAW A YOUNG PERSON ABOUT THE AGE OF
10 15 OR 16 HOLDING A GUN AT US. THAT'S ON PAGE 165, AND
11 THAT WAS TESTIMONY BY LIXIA WANG.

12 THE TESTIMONY THAT STERLING WALLACE
13 PROVIDED ABOUT THE ROBBERY WHICH OCCURRED ON COMICE
14 COURT ON APRIL 20TH. THE DATE OF THE TESTIMONY IS
15 JULY 13, 2017. THIS DETAIL BEGINS ON PAGE 123. AND HE
16 SAYS THAT HE PULLED OUT A GUN, WHICH WAS VISIBLE TO THE
17 OLDER MAN WHO OPENED THE DOOR. AND THAT WHAT -- HE IS
18 ASKED, AFTER TYREE MANSELL PULLED OUT THE GUN, WHAT DID
19 HE DO? AND STERLING WALLACE SAID, HE PASSED IT TO ME.
20 STERLING WALLACE IS ASKED, DID HE TELL YOU TO DO
21 ANYTHING? AND STERLING WALLACE SAYS, HE TOLD ME TO
22 CHECK THE HOUSE TO SEE IF ANYBODY WAS HOME.

23 AT THE NEXT PAGE, ON PAGE 125, HE IS
24 ASKED WHETHER OR NOT HE WAS STILL HOLDING THE GUN WHILE
25 HE WAS STANDING THERE WITH THE OLDER GENTLEMAN, WHO THEY

1 HAD DRAGGED TO THE KITCHEN AND PUSHED TO THE FLOOR. AND
2 HE SAID, YES, HE WAS POINTING THE GUN AT HIS -- THAT HE
3 WAS POINTING THE GUN AT HIM. HE SAID, I WASN'T AT THAT
4 POINT, I HAD IT DOWN AT MY SIDE.

5 FINALLY, WE HEARD TESTIMONY BOTH FROM
6 BRIAN SEAM AND FROM HIS MOTHER, MS. SEAM, ABOUT THE
7 JUNE 15TH ROBBERY IN THEIR HOME --

8 MR. HARDEN: I AM NOT CHALLENGING THAT.

9 MS. OSIRIM: -- ON PAGE -- THEY GAVE
10 TESTIMONY ON TRIAL DAY 4, JULY 13TH. BRIAN SEAM IS
11 ASKED ABOUT HIS EXPERIENCE, AND HE SAYS, BEFORE I COULD
12 ANSWER, ONE GUY TOOK OUT HIS GUN, BARGED IN, TURNED ME
13 AROUND, PUSHED ME ON THE STAIRS AND STARTED HITTING ME
14 WITH HIS GUN ON MY HEAD. HE HIT ME IN THE FACE ONE TIME
15 NEXT TO MY EYE. THAT'S AT PAGE 11 OF THAT TRIAL
16 TRANSCRIPT.

17 LADINE SEAM TESTIFIED ALSO THAT DAY AT
18 PAGES 31 AND 32, SAYING, YES, MY SON WAS HIT BY THE GUN
19 UNDER HIS RIGHT EYE. AND THEN THEY HIT HIM IN THE EYE
20 AND THEN THERE'S ANOTHER GUN HIT ON TOP OF HIS HEAD.
21 AND SHE TESTIFIED AND TALKED ABOUT PHOTOGRAPHS THAT WERE
22 TAKEN OF HER SON AFTER THE INJURY THAT WAS CAUSED BY THE
23 USE OF A FIREARM IN THAT CASE, AND TALKED ABOUT BEING
24 FORCED INTO A ROOM TO OPEN A SAFE AT THAT POINT AS WELL
25 DURING THIS TRIAL.

1 SO THERE IS EVIDENCE IN THIS CASE AT
2 TRIAL OF THE USE OF FIREARMS IN ALL FOUR OF THE
3 ROBBERIES WHICH WERE CHARGED AND WHICH WERE THE CONDUCT
4 OF CONVICTION IN THIS CASE. WE BELIEVE THAT THE COURT
5 SHOULD CREDIT THAT EVIDENCE, AND THAT IT PROVES BY A
6 PREPONDERANCE THAT THE DEFENDANT USED OR AIDED AND
7 ABETTED THE USE OF FIREARMS IN EACH OF THE COMMISSIONS
8 OF THESE OFFENSES AND THAT THE USE OF FIREARMS WAS
9 REASONABLY FORESEEABLE TO HIM DURING THE COMMISSION OF
10 THESE OFFENSES.

11 FOR THAT REASON, THE SIX-LEVEL
12 ENHANCEMENT IS APPROPRIATE, YOUR HONOR.

13 THE COURT: OKAY. DOES DEFENSE COUNSEL
14 HAVE ANYTHING ELSE TO ADD?

15 MR. HARDEN: YES, YOUR HONOR. WITH
16 REGARD TO GROUP FIVE ROBBERY, THAT'S BRIAN SEAM AND
17 LADINE SEAM, I BELIEVE, WE DO NOT CHALLENGE THE SIX
18 LEVEL -- THERE IS NO ADJUSTMENT ON THAT CASE BECAUSE
19 THAT WAS THE CASE WHERE HE WAS CONVICTED OF 924(C). SO
20 WE ARE NOT CHALLENGING THE USE OR USAGE OF FIREARMS ON
21 THAT CASE FOR PURPOSES OF SENTENCING.

22 WITH REGARD TO THE REMAINDER OF THE
23 CASES, THERE ARE ELEMENTS THAT YOU HAVE TO ESTABLISH TO
24 SHOW THAT A FIREARM WAS INDEED A FIREARM. IN ONE CASE,
25 AND I BELIEVE THE TESTIMONY WAS THAT A PERSON CAME IN

1 WITH A GUN AND A SCREWDRIVER. AND IF YOU RECALL, YOUR
2 HONOR, AT THE FINAL ROBBERY, THE ROBBERY WHERE MR.
3 MANSELL WAS ALLEGED TO -- WAS CONVICTED OF RUNNING FROM
4 THE CAR, ONE OF THE GUNS THAT WAS STOLEN IN ONE OF THE
5 PREVIOUS ROBBERIES, WHICH WE DO NOT CONTEST, WAS USED AT
6 THAT ROBBERY. AND MY ARGUMENT, WHICH IS WITH A
7 PREPONDERANCE OF EVIDENCE -- A PREPONDERANCE OF
8 EVIDENCE, THEY STILL HAVE TO PROVE THAT IT'S MORE LIKELY
9 THAN NOT THAT THESE INDIVIDUALS WERE ARMED WITH
10 FIREARMS. AND THERE ARE PEOPLE GETTING ROBBED ALL OVER
11 THE WORLD -- I MEAN, EXCUSE ME, ALL OVER THE UNITED
12 STATES ALL THE TIME WITH THINGS THAT LOOK LIKE GUNS THAT
13 ARE NOT GUNS. AND THAT'S WHY WE ARE ARGUING THAT
14 DANGEROUS WEAPONS WERE POSSESSED.

15 WITH REGARD TO STERLING WALLACE, STERLING
16 WALLACE'S TESTIMONY WAS COMPLETELY REJECTED BY THE JURY.
17 THE JURY FOUND -- THERE WAS NO OTHER WAY FOR THEM TO
18 FIND MR. MANSELL NOT GUILTY OF AIDING AND ABETTING OR
19 HAVING ANYTHING TO DO WITH A GUN IN THOSE THREE
20 ROBBERIES UNLESS THEY COMPLETELY REJECTED HIS TESTIMONY.
21 I THINK THAT YOU SHOULD CREDIT THE JURY THERE. THE JURY
22 FOUND THAT MR. WALLACE'S TESTIMONY WAS INCONSISTENT.

23 IF YOU RECALL, MR. WALLACE TESTIFIED THAT
24 HE BROUGHT THE FIRST GUN TO THE FIRST ROBBERY. AND I
25 ASKED HIM WHERE HE GOT THE GUN FROM? AND HE SAID, A

1 CRACKHEAD. AND I SAID, DO YOU KNOW THE CRACKHEAD'S
2 NAME? HE SAID, NO, I DON'T KNOW. THEN I SAID, WHAT
3 HAPPENED TO THAT GUN? HE SAID, I DON'T KNOW, MY LITTLE
4 BROTHER OR SOMETHING -- SOMETHING HAPPENED TO IT. BUT
5 EVEN THEN, HE WAS TESTIFYING ABOUT THAT GUN THAT WAS
6 USED IN -- ALLEGEDLY USED IN THE FIRST ROBBERY NOT BEING
7 AVAILABLE FOR THE SECOND AND THIRD ROBBERIES. SO WE
8 DON'T HAVE ANY TESTIMONY ABOUT THE TEXTURE OF THE
9 FIREARM.

10 YOUR HONOR, YOU WERE A PROSECUTOR, YOU
11 MIGHT ASK A PERSON, DID THEY TOUCH YOU WITH THE FIREARM?
12 WHAT COLOR WAS IT? WAS IT COLD? WAS IT HOT? DID IT
13 HAVE A BARREL OR DID IT HAVE A -- OR WAS IT AN
14 AUTOMATIC? THERE WAS NO TESTIMONY FROM THE VICTIMS
15 ABOUT THAT. THE ONLY TESTIMONY THEY HAD CONCERNING
16 THOSE THINGS WERE FROM STERLING WALLACE, WHO WAS
17 COMPLETELY REJECTED BY THE JURY BECAUSE HE WAS
18 INCREDIBLE, HE HAD 100 PERCENT REASON TO PUT A FIREARM
19 IN MR. MANSELL'S HANDS. HE DIDN'T PUT A FIREARM -- HE
20 PUT A FIREARM IN HIS HANDS MAYBE ONCE OR TWICE, BUT HIS
21 ENTIRE TESTIMONY WAS TO SAVE HIS BEHIND FROM THE STAND.
22 SO I THINK THAT AT LEAST IN THIS CIRCUMSTANCE, WITH
23 REGARDS TO GROUPS ONE, TWO AND THREE AND FOUR, THERE HAS
24 BEEN NO CREDIBLE TESTIMONY WITH REGARD TO MR. MANSELL
25 POSSESSING AN ACTUAL FIREARM.

1 THE COURT: OKAY.

2 MS. OSIRIM: YOUR HONOR, THE DEFENSE IS
3 ARGUING ESSENTIALLY THAT BECAUSE THE JURY ACQUITTED MR.
4 MANSELL OF THESE THREE FIREARMS CHARGES AT THE CORE THAT
5 SOMEHOW THERE IS NO EVIDENCE TO SUGGEST THAT FIREARMS
6 WERE ACTUALLY USED DURING THE COMMISSION OF THESE
7 OFFENSES. WE DO NOT KNOW WHAT WAS IN THE JURY'S MIND AT
8 THE TIME THAT THEY REACHED THE DECISION THAT THEY DID IN
9 THIS CASE, BUT THE GOVERNMENT IS URGING THE COURT TO
10 CONSIDER THIS WITH RESPECT TO THE FACT THAT HE WAS
11 ACQUITTED OF THESE CASES. HAD HE NOT BEEN ACQUITTED ON
12 THESE CHARGES, WE WOULD BE ASKING THE COURT --

13 MR. HARDEN: OBJECTION, IRRELEVANT.

14 MS. OSIRIM: -- TO ACTUALLY --

15 THE COURT: OVERRULED.

16 MS. OSIRIM: TO ACTUALLY SENTENCE THE
17 DEFENDANT TO THE MANDATORY MINIMUM IN CONNECTION WITH
18 EACH OF THOSE GUN OFFENSES. WE ARE, WITH RESPECT,
19 ASKING THAT THE ENHANCEMENT BE APPLIED BECAUSE THERE WAS
20 AMPLE EVIDENCE THAT WAS PROFFERED BOTH BY THE VICTIMS OF
21 THESE CASES AND THE COOPERATOR IN THIS CASE THAT REAL
22 GUNS WERE TAKEN TO EACH OF THESE HOMES, THAT REAL GUNS
23 WERE USED TO CORRAL THE VICTIMS, TO THREATEN THE VICTIMS
24 AND TO SCARE THEM IN ORDER TO EXTRACT MONEY AND OTHER
25 VALUABLES FROM THEIR HOMES. AND FOR THAT REASON, THE

1 SIX-LEVEL ENHANCEMENT IS APPLICABLE HERE.

2 THE COURT: DOES THE GOVERNMENT HAVE ANY
3 COMMENT ON THE RELEVANT CONDUCT OBJECTION AS WELL AS THE
4 OBSTRUCTION OBJECTION?

5 MS. OSIRIM: YES, I BELIEVE THE RELEVANT
6 CONDUCT OBJECTION WAS THAT THE DEFENDANT WAS GIVEN AN
7 ADDITIONAL POINT BASED ON THE F STREET HOME INVASION
8 ROBBERY. THE GOVERNMENT HAS CHARGED A CONSPIRACY IN
9 THIS CASE. THE F STREET ROBBERY IS WITHIN THE DATES AND
10 TIMELINE OF THAT ROBBERY CONSPIRACY.

11 ADDITIONALLY, WE HEARD TESTIMONY FROM
12 STERLING WALLACE THAT BOTH HE AND THE DEFENDANT
13 RECOVERED FROM F STREET A FIREARM THAT THEY USED IN THE
14 COMMISSION OF THE JUNE 15TH ROBBERY IN BROOMALL, AND
15 THAT WAS ALSO PART OF THIS HOBBS ACT CONSPIRACY. UNDER
16 1B1.3, THIS CONDUCT IS PERMISSIBLE FOR CONSIDERATION AT
17 THE TIME OF SENTENCING AND IS APPROPRIATE TO ESTABLISH A
18 BASIS FOR -- AN ENHANCEMENT BASED ON THAT ADDITIONAL
19 CONDUCT.

20 I BELIEVE THE DEFENDANT ALSO LODGED AN
21 OBJECTION THROUGH THE SENTENCING MEMORANDUM TO THE
22 TWO-LEVEL ADJUSTMENT FOR LEADER OR ORGANIZER. THE
23 GOVERNMENT OBVIOUSLY FEELS THAT THAT ENHANCEMENT IS
24 APPROPRIATE IN THIS CASE. WE HEARD TESTIMONY FROM
25 ABDULLAH HARTAGE, FROM EDWARD SCOTT AND FROM STERLING

1 WALLACE THAT THE DEFENDANT REACHED OUT TO THEM WHEN
2 ORGANIZING AND ATTEMPTING TO IDENTIFY THESE LOCATIONS
3 WHERE ROBBERIES WERE ULTIMATELY COMMITTED. WE SAW THAT
4 ABDULLAH HARTAGE, WHO WAS ONLY 17 AT THE TIME THAT HIS
5 UNCLE GOT HIM INVOLVED IN THESE ROBBERIES, WAS TOLD TO
6 DRIVE TO VARIOUS LOCATIONS. THOSE LOCATIONS WERE THEN
7 RECORDED IN HIS PHONE OR MR. WALLACE AND MR. MANSELL'S
8 PHONE AND THEY WOULD RETURN TO THEM.

9 WE HEARD TESTIMONY FROM EDWARD SCOTT THAT
10 MR. MANSELL REACHED OUT TO HIM AND CALLED HIM AND ASKED
11 HIM TO DRIVE TO THE FIRST OF THE ROBBERY LOCATIONS IN
12 THIS CASE THE FRIDAY BEFORE THAT ROBBERY TOOK PLACE. HE
13 WAS DIRECTED AT MR. MANSELL'S BEHEST. AND STERLING
14 WALLACE ALSO TESTIFIED THAT HE AND ABDULLAH FOLLOWED
15 BEHIND THEM IN A CAR AS THEY TOO WERE DIRECTED TO FOLLOW
16 AND TO RECORD THE LOCATION OF THAT HOME. IT WAS OBVIOUS
17 EVEN FROM THE DEMEANOR OF MR. SCOTT AND MR. HARTAGE THAT
18 THEY WERE ORGANIZING OR OTHERWISE LEADING THESE
19 ROBBERIES, THAT THEY WERE PARTICIPANTS, CERTAINLY, BUT
20 THAT THEY DID SO BASED ON THEIR RELATIONSHIP WITH THE
21 DEFENDANT, TYREE MANSELL.

22 I BELIEVE MR. HARDEN ARGUES IN HIS MOTION
23 THAT STERLING WALLACE SPECIFICALLY RECRUITED HIS BROTHER
24 JAMAIN TO PARTICIPATE IN THE LAST OF THESE ROBBERIES. I
25 THINK THAT IS ALSO AN ACCURATE STATEMENT. JAMAIN

1 WALLACE WAS, IN FACT, STRANDED AND NEEDED A RIDE ON THE
2 DAY OF THE JUNE 15TH ROBBERY AND CALLED HIS BROTHER TO
3 SIMPLY PICK HIM UP. WHEN HE WAS PICKED UP, HE WAS TOLD
4 THAT BECAUSE TYREE MANSELL HAD DECIDED THAT THEY WERE
5 GOING TO COMMIT THE JUNE 15TH ROBBERY THAT DAY, THAT HE
6 WAS IN THE CAR AND HE WAS THEREFORE GOING TO BE A PART
7 OF IT AND PARTICIPATED ON THAT REASON. BUT HE HAD NO
8 INVOLVEMENT IN ORGANIZING AND IDENTIFYING AND DIRECTING
9 THAT PARTICULAR ROBBERY TO TAKE PLACE.

10 I THINK MR. HARDEN ALSO POSED AN
11 OBJECTION TO -- HERE, ORALLY IN COURT BUT NOT STATED IN
12 THE SENTENCING MEMORANDUM TO THE ABDUCTION ENHANCEMENT
13 THAT IS APPLIED IN CONNECTION WITH THE FIRST OF THESE
14 ROBBERIES ON THE COMICE COURT PROPERTY IN TELFORD,
15 PENNSYLVANIA. THE GOVERNMENT AT TRIAL SPOKE WITH THE
16 VICTIM OF THAT ROBBERY, HYUN SOO CHO, ABOUT WHAT
17 TRANSPIRED THAT DAY. AND HE TALKED TO US ABOUT HAVING
18 ANSWERED THE DOOR AND THEN BEING TAKEN TO HIS KITCHEN,
19 WHICH WAS DOWN THE HALLWAY, PAST THE STAIRCASE, WHERE HE
20 WAS BEATEN ON THE GROUND AND TIED UP BEFORE HE COULD GET
21 OUT.

22 STERLING WALLACE ALSO TESTIFIED ABOUT
23 THAT CASE. WHEN WE SPOKE WITH THE VICTIM, WE SHOWED
24 PHOTOGRAPHS TO HIM AND TO THE JURY WHICH SHOWED THE
25 LOCATION OF THE DOOR, THE STAIRWAY AND THEN SHOWED THE

1 KITCHEN AS A SEPARATE ROOM BEHIND THAT AREA, WHICH HE
2 DISCUSSED WITH THE JURY, WHERE HE WAS FINALLY TAKEN AND
3 TIED UP. STERLING WALLACE ALSO OFFERED TESTIMONY ON
4 EXACTLY WHAT THEY DID AT THAT HOUSE. HE SAID THAT -- HE
5 WAS ASKED, DID YOU AND TYREE -- WHAT DID YOU DO WITH THE
6 OLDER MAN, IF ANYTHING? HE SAID, TYREE JUST HELD THE
7 MAN AT KNIFEPOINT, BUT I WENT TO GO CHECK UPSTAIRS TO
8 SEE IF ANYONE WAS HOME. HE WAS ASKED, WAS THAT RIGHT AT
9 THE THRESHOLD OF THE DOOR OR FARTHER INTO THE HOUSE? HE
10 SAID, THAT WAS FARTHER INTO THE HOUSE. HE WAS ASKED,
11 WHAT PART OF THE HOUSE THEY HELD THIS ELDER GENTLEMAN ON
12 THE GROUND? AND HE SAID, IN THE KITCHEN. HE WAS ASKED,
13 DID HE GET FROM THE THRESHOLD OF THE DOOR AREA TO THE
14 KITCHEN? AND HE SAID, YES, THEY PUSHED HIM BACK ALL THE
15 WAY TO THE KITCHEN, WHICH I THINK IS CLEAR TESTIMONY
16 THAT THEY MOVED HIM FROM THE PLACE WHERE HE WAS WHEN HE
17 FIRST ANSWERED THE DOOR TO THE PLACE WHERE HE WAS
18 ULTIMATELY BOUND AT THE WRISTS AND AT THE ANKLES BY THE
19 DEFENDANT AND HIS CO-CONSPIRATOR IN THIS CASE. I THINK
20 THAT ADEQUATELY SATISFIES THE ABDUCTION ENHANCEMENT ON
21 THAT ROBBERY.

22 THE COURT: OKAY. MR. HARDEN.

23 MR. HARDEN: YOUR HONOR, I ONLY HAVE
24 FURTHER ARGUMENT -- I HAVE ALREADY SAID WITH REGARD TO
25 RELEVANT CONDUCT AND THE ORAL OBJECTION I MADE WITH

1 REGARD TO THE ABDUCTION.

2 BUT WITH REGARD TO THE LEADERSHIP ROLE, I
3 UNDERSTAND THE GOVERNMENT'S ARGUMENT WITH REGARD TO --
4 THERE ARE INSTANCES WHERE MR. MANSELL EXERCISED A
5 LEADERSHIP ROLE, BUT THE INQUIRY BASED UPON WHAT THE
6 THIRD CIRCUIT HAS SAID IN THE CASE THAT I CITE IN MY
7 MEMORANDUM IS WHETHER OR NOT HE WAS A SOLE LEADER AND
8 ORGANIZER OF THIS ENTITY. IF THERE ARE SHARED
9 ORGANIZATIONAL RESPONSIBILITIES -- THE CASE I CITE
10 SPECIFICALLY IS TWO INDIVIDUALS WHO HAVE SHARED
11 RESPONSIBILITY, 50/50. THERE'S INDICATION THAT BOTH OF
12 THEM CAN INITIATE OR START THIS, I GUESS YOU COULD SAY,
13 TRAIN ROLLING WITH REGARD TO THE CONSPIRACY THAT'S
14 GOING. AND THROUGHOUT THIS CASE, THROUGHOUT THIS
15 EVIDENCE, THROUGHOUT THE TEXT MESSAGES THAT THE
16 GOVERNMENT PROFFERED DURING TRIAL, ABDULLAH HARTAGE
17 WOULD SEND TEXT MESSAGES TO OTHER PEOPLE IN THE
18 CONSPIRACY THAT SAID THINGS LIKE, I AM SITTING OUTSIDE
19 THIS HOUSE RIGHT NOW. I THINK WE SHOULD HIT IT. THESE
20 ARE THINGS THAT ARE INDIVIDUALLY STARTED BY ABDULLAH
21 HARTAGE. YOU HAVE STERLING WALLACE, WHO HAS TEXT
22 MESSAGES THAT HE ACKNOWLEDGED WITH REGARD TO PERFORMING
23 OTHER ROBBERIES THAT HE WAS INITIATING THAT WERE WITHIN
24 THE CONSPIRACY. SO IT'S NOT THAT -- THE GOVERNMENT IS
25 SAYING THAT MR. MANSELL THEREFORE SHOULD HAVE A

1 LEADERSHIP ADJUSTMENT BECAUSE HE EXERCISED LEADERSHIP
2 POTENTIAL DURING THIS CONSPIRACY, AND THAT'S NOT WHAT
3 THE CASE LAW SAYS. THE CASE LAW SAYS THAT AN INDIVIDUAL
4 HAS TO BE THE LEADER, IT HAS TO BE THE PERSON WHERE
5 THERE IS -- FOR EXAMPLE, IN A DRUG CONSPIRACY WHERE
6 THERE IS A GENERAL, LIEUTENANT, ET CETERA. THIS IS NOT
7 THAT SORT OF CASE. THIS IS A CASE WHERE A BAND OF
8 INDIVIDUALS, SOMETIMES TOGETHER, SOMETIMES NOT TOGETHER,
9 SOMETIMES INDIVIDUALS SLEEP INSIDE THE CAR. I BELIEVE
10 THERE WAS TESTIMONY -- LET ME RETRACT THAT. I BELIEVE
11 THEY SAID THAT MR. -- NEVER MIND. BUT WITH REGARD TO
12 HIS TESTIMONY ABOUT INDIVIDUALS TAKING ACTIONS AND DOING
13 THINGS THAT MR. MANSELL HAD NO LEADERSHIP ROLE IN, THEY
14 WERE IDEAS FROM OTHER PEOPLE INSIDE THE CASE.

15 MS. OSIRIM: YOUR HONOR, IF WE LOOK TO
16 SECTION 3B1.1 IN THE GUIDELINES, THE ENHANCEMENT IS
17 APPLICABLE IF THE DEFENDANT WAS AN ORGANIZER OR LEADER
18 OR MANAGER OR SUPERVISOR, AND THE NOTES THERE SAY THAT
19 OF COURSE THERE CAN BE MORE THAN ONE PERSON WHO
20 QUALIFIES AS A LEADER OR AN ORGANIZER OF A CRIMINAL
21 ASSOCIATION OR CONSPIRACY.

22 IN THIS CASE, WE ALLEGE THAT MR. MANSELL
23 WAS, IN FACT, THE LEADER OR ORGANIZER, BUT TO THE EXTENT
24 TO WHICH HE RECEIVED A TEXT MESSAGE FROM ABDULLAH
25 HARTAGE OR A NOTE FROM SOMEONE ELSE ABOUT AN APPROPRIATE

1 TIME TO HIT A HOUSE THAT MR. MANSELL HAD IDENTIFIED AS
2 THE LOCATION OF A FUTURE ROBBERY IS, I THINK, UTTERLY
3 BESIDE THE POINT HERE. THE ENHANCEMENT IS APPLICABLE
4 BECAUSE THE EVIDENCE PRESENTED AT TRIAL AND THE EVIDENCE
5 IN THIS CASE SHOWS THAT TYREE MANSELL IS THE INDIVIDUAL
6 WHO ACTUALLY DECIDED WHO WAS GOING TO PARTICIPATE IN
7 THESE ROBBERIES, WHO DECIDED ON THE LOCATIONS OF THESE
8 ROBBERIES AND WHO INITIATED THE TIME IN WHICH THESE
9 ROBBERIES TOOK PLACE.

10 MR. HARDEN: IF I MAY, YOUR HONOR?

11 THE COURT: YES.

12 MR. HARDEN: UNITED STATES VERSUS
13 COUTURE, THE THIRD CIRCUIT SAID, WHERE MULTIPLE
14 PARTICIPANTS WERE EQUALLY CULPABLE AND THEY DID NOT
15 ORGANIZE, LEAD, MANAGE OR SUPERVISE A THIRD PARTICIPANT,
16 SECTION 3B1.1 DOES NOT APPLY.

17 MS. OSIRIM: I WOULD ASK THE COURT TO
18 REVIEW THAT WITH SOME CAUTION WHEN THINKING ABOUT
19 WHETHER A 17-YEAR-OLD NEPHEW OF THE DEFENDANT WAS
20 EQUALLY CULPABLE IN THE COMMISSION OF THE ARMED HOME
21 INVASION ROBBERY WHICH HE HAD NO BACKGROUND OR CRIMINAL
22 HISTORY IN.

23 THE COURT: UNLIKE THE DEFENDANT.

24 MS. OSIRIM: UNLIKE THE DEFENDANT.

25 THE COURT: THE COURT FINDS THAT THE

1 CALCULATION OF THE GUIDELINES WAS APPROPRIATE IN THIS
2 CASE, AND I OVERRULE THE OBJECTIONS OF THE DEFENSE.

3 ARE WE READY TO PROCEED TO SENTENCING?

4 MR. HARDEN: YES, YOUR HONOR.

5 THE COURT: I WILL HEAR YOU ON BEHALF OF
6 YOUR CLIENT.

7 MR. HARDEN: COURT'S INDULGENCE.

8 YOUR HONOR, APPEARING BEFORE YOU TODAY IS
9 TYREE MANSELL, CONVICTED OF FIVE HOME INVASION
10 GUNPOINT ROBBERIES OF INDIVIDUALS -- I'M SORRY, FOUR
11 HOME INVASION GUNPOINT ROBBERIES, THE POSSESSION OF A
12 FIREARM DURING ONE OF THOSE ROBBERIES IN FURTHERANCE OF
13 COMMISSION OF THAT ROBBERY AND CONSPIRACY.

14 THERE IS NOT MUCH THAT ANYONE IS GOING TO
15 SAY POSITIVE ABOUT MR. MANSELL TODAY BECAUSE WE
16 UNDERSTAND -- OR MAYBE WE DON'T UNDERSTAND, BUT MANY
17 TIMES IN THE CRIMINAL JUSTICE SYSTEM WE SEE SENTENCES
18 THAT HAVE ALREADY BEEN WRITTEN AND THEY ARE JUST WAITING
19 FOR A PERIOD. MR. MANSELL GREW UP HOW MANY INDIVIDUALS
20 IN THE CRIMINAL JUSTICE SYSTEM GREW UP. HE WAS AWARDED
21 DHS FROM THE DAY THAT -- FROM A VERY EARLY AGE IN HIS
22 CHILDHOOD. HE NEVER HAD A FAMILIAL RELATIONSHIP WITH
23 ANY OF THE INDIVIDUALS IN HIS FAMILY PRIOR TO -- I DON'T
24 THINK HE HAS EVER HAD ANY FAMILIAL RELATIONSHIPS WITH
25 ANYONE WHO IS A DIRECT BLOOD RELATIVE. THE PRESENTENCE

1 INVESTIGATION IDENTIFIES THAT, I BELIEVE, AT THE AGE OF
2 10, MR. MANSELL WAS COMMITTED TO DHS AND THEN LIVED
3 THROUGHOUT PENNSYLVANIA IN DIFFERENT PLACES, AND HE
4 WOULD FREQUENTLY RUN AWAY TO GET BACK TO THE STREETS OF
5 PHILADELPHIA, BECAUSE THAT WAS THE ONLY THING THAT HE
6 COULD CALL HOME.

7 I AM MAKING THESE ARGUMENTS WITH REGARD
8 TO THE 3553(A) STANDARDS BECAUSE, YOU KNOW, IF THE COURT
9 IS GOING TO FIND ANY REASON TO MITIGATE MR. MANSELL'S
10 SENTENCE, IT'S NOT GOING TO BE BECAUSE OF -- THERE IS
11 SOME YELLOW BRICK ROAD OR SOMETHING IN THE FACTS OF
12 THESE CASES. THE FACTS OF THESE CASES ARE HORRENDOUS.
13 WE ACKNOWLEDGE THAT. MR. MANSELL ACKNOWLEDGES THAT. HE
14 WENT TO TRIAL BECAUSE HE KNEW WHAT THE OUTCOME WOULD BE
15 IF HE DID NOT, WHETHER HE PLED GUILTY OR WHETHER HE WENT
16 TO TRIAL.

17 MR. MANSELL HAS TROUBLE WITH BASIC
18 THINGS, LIKE REMORSE, ATTACHMENT, UNDERSTANDING THE
19 CONSEQUENCES OF HIS ACTIONS. AND THOSE THINGS ARE
20 DOCUMENTED. THEY WERE DOCUMENTED IN HIS PROBATION
21 SUMMARY WHEN HE WAS CONVICTED OF COMMITTING SIMILAR
22 CRIMES -- THE EXACT SAME CRIMES APPROXIMATELY SEVEN OR
23 EIGHT YEARS AGO.

24 MR. MANSELL IS HERE AT THE MERCY OF THE
25 COURT. HE UNDERSTANDS WHAT THE OUTCOME OF THIS CASE

1 WILL LIKELY BE. I, AGAIN, CITE THE FAMILIAL HISTORY
2 WITH REGARD TO MR. MANSELL. I CITE THE PRESENTENCE
3 INVESTIGATION WITH REGARD TO A LACK OF MENTAL HEALTH
4 TREATMENT THAT MR. MANSELL HAS UNDERGONE. I UNDERSTAND
5 THAT AT THE -- YOU WILL HEAR IT FROM MR. MANSELL. MR.
6 MANSELL HAS SAID THAT HE HAS HEARD VOICES FOR A
7 SIGNIFICANT AMOUNT OF TIME AND THEY HAVE NEVER TOLD HIM
8 TO DO ANYTHING NEGATIVE. WE DON'T KNOW WHAT IT IS THAT
9 MOTIVATES MR. MANSELL TO COMMIT THESE SORT OF CRIMES.

10 AGAIN, I BEGAN MY SENTENCING MEMORANDUM
11 BY ASKING THE COURT TO TAKE INTO CONSIDERATION MR.
12 MANSELL'S LIFE EXPECTANCY. NO ONE WAS KILLED DURING ANY
13 OF THESE CRIMES. AND I UNDERSTAND THAT THE COURT WILL
14 LIKELY SENTENCE MR. MANSELL TO A SENTENCE THAT WILL PUT
15 HIM IN PRISON EITHER UNTIL HE IS VERY OLD OR UNTIL HE
16 LEAVES THE PRISON IN A PINE BOX. I WOULD ASK THE COURT
17 TO CONSIDER THE FACT THAT NO ONE WAS KILLED DURING THESE
18 INCIDENTS, AND THAT MAYBE IN HIS ELDERLY YEARS MR.
19 MANSELL MAYBE WOULD BE ABLE TO MAKE SOME TYPE OF
20 RECOMPENSE TO SOCIETY, THE RECOMPENSE THAT SOCIETY HAS
21 NEVER MADE TO HIM.

22 HE UNDERSTANDS THAT HE HAS HAD MULTIPLE
23 CHANCES. HE HAS HAD A CHANCE WITH THE PAROLE SYSTEM IN
24 PENNSYLVANIA; HE UNDERSTANDS THAT HE HAD A CHANCE WITH
25 THE UNITED STATES PROBATION AND PAROLE SYSTEM HERE WITH

1 THE FEDERAL COURT.

2 SO AT THIS POINT, YOUR HONOR, JUST CITING
3 AGAIN -- JUST REFERENCING, I BELIEVE IT'S 3553 FACTORS,
4 I WOULD ASK THE COURT TO HAVE SOME SORT OF LENIENCY ON
5 MY CLIENT. THANK YOU.

6 THE COURT: OKAY, I WILL HEAR FROM THE
7 GOVERNMENT.

8 MS. OSIRIM: THANK YOU, YOUR HONOR.

9 I WOULD LIKE TO NOTE FOR THE RECORD THAT
10 THERE ARE -- MANY OF THE VICTIMS OF THE CRIMES THAT TOOK
11 PLACE ARE HERE AND PRESENT IN COURT TODAY. IN ADDITION
12 TO LIXIA WANG AND MR. LIU, LADINE AND SUNLY SEAM, WE
13 ALSO HAVE A REPRESENTATIVE GENTLEMAN, THE ASIAN PACIFIC
14 AMERICAN BAR ASSOCIATION, AS WELL AS SEVERAL
15 REPRESENTATIVES LED BY MALIA LIAO OF THE GREATER
16 PHILADELPHIA CHINESE RESTAURANT ASSOCIATION. THESE
17 VICTIMS AND BOTH OF THESE ASSOCIATIONS HAVE ACTUALLY
18 SUBMITTED VICTIM IMPACT STATEMENTS TO THE COURT, AND
19 THEY HAVE ASKED THAT I READ THESE STATEMENTS TO THE
20 COURT. IF THE COURT PERMITS, I AM HAPPY TO READ SOME OF
21 THESE STATEMENTS NOW.

22 THE COURT: PLEASE.

23 MS. OSIRIM: MAY I APPROACH THE PODIUM,
24 YOUR HONOR?

25 THE COURT: YES.

1 MS. OSIRIM: HYUN SOO CHO, WHO WAS A
2 VICTIM OF THE APRIL 20, 2015 ROBBERY AT COMICE COURT IN
3 TELFORD, PENNSYLVANIA, SUBMITTED A STATEMENT TO THE
4 COURT THAT HE WOULD LIKE FOR ME TO READ.

5 MR. CHO STARTS, IN 2007, I CLOSED DOWN MY
6 BUSINESS IN KOREA UPON MY WIFE'S CITIZENSHIP PETITION
7 AND WE CAME TO AMERICA, WHERE OUR OLDEST SON LIVES. I
8 WAS UNFAMILIAR WITH AND AWKWARD IN THE NEW ENVIRONMENT.
9 ONE DAY I WAS WASHING AND MOVING THE GARBAGE CANS IN
10 FRONT OF THE GARBAGE AFTER MY SON AND HIS WIFE WENT TO
11 WORK, AND I FELL. I INJURED MY SPINE, WHICH CAUSED
12 TOTAL PARALYSIS OF MY BODY, BUT I HAD REGAINED THE
13 ABILITY TO WALK SOMEWHAT AFTER SURGERY AND PHYSICAL
14 THERAPY.

15 THE TOWN WE LIVED IN WAS PEACEFUL AND IT
16 WAS LAID BACK. BECAUSE I DIDN'T KNOW HOW TO DRIVE, I
17 SPENT MY DAYS THINKING ABOUT MY PAST LIFE OR MY WIFE,
18 WHO PASSED AWAY ABRUPTLY IN 2011, SAYING HELLO AND
19 SPEAKING WITH MY NEIGHBORS WALKING BY THROUGH THE OPEN
20 GARAGE DOOR OR ENJOYING THE PLEASANT BREEZE.

21 ONE DAY, DESPITE THE MISTY WEATHER, I
22 FINISHED SIMPLE EXERCISES AND WAS GOING TO WATCH
23 TELEVISION WHEN I HEARD THE DOORBELL RING. I WALKED TO
24 THE FRONT DOOR WITHOUT ANY SUSPICION. WHEN I PEEKED
25 THROUGH THE SMALL WINDOW, SOMEONE SAID HELLO, AND I

1 THOUGHT IT WAS THE UPS MAN OR ANOTHER FROM A CHARITY
2 ORGANIZATION ASKING FOR A DONATION. IT WAS THAT MOMENT
3 WHEN I OPENED THE DOOR WHEN MY TERRIBLY HORRENDOUS
4 EXPERIENCE STARTED. MEN WITH A GUN AND A KNIFE PUSHED
5 THEMSELVES IN. THEY HELD ME, THEY PUSHED ME TO THE BACK
6 AND DOWN ONTO MY KNEES ON THE KITCHEN FLOOR. THEY TIED
7 MY HANDS AND KNEES WITH A SKIPPING ROPE THEY FOUND IN
8 THE GARAGE AND A CELL PHONE CHARGER. ONE MAN KEPT WATCH
9 ON ME SO I WOULDN'T MOVE WHILE THE OTHER WENT UPSTAIRS
10 AND STARTED LOOKING AROUND.

11 AFTER SOME TIME PASSED, THE GUY UPSTAIRS
12 FOUND THE \$2,000 I HAD BEEN SAVING IN THE INNER POCKET
13 OF MY WINTER CLOTHING IN THE HOPE OF RETURNING TO KOREA
14 TO VISIT.

15 I AM A VETERAN. I FOUGHT IN THE KOREAN
16 WAR. I MOVED MY HANDS VIGOROUSLY TO GET MY HANDS
17 UNTIED, AND WHEN I FELT THE LITTLE SPACE, I WAS ABLE TO
18 WIGGLE MY HANDS OUT. I FELT EXTREME PAINS IN MY LEGS
19 THAT HAD BEEN GIVING ME PROBLEMS ALREADY AS I WAS
20 KNEELING DOWN WITH MY KNEES TIED UP FOR TWO HOURS. I
21 DRAGGED MYSELF TO THE BACK DOOR, SUPPORTING MYSELF WITH
22 BOTH HANDS, AND ROLLED OUT OF THE DECK AND FELL TO THE
23 BACKYARD TO THE NEXT-DOOR NEIGHBOR'S HOUSE TO GET HELP,
24 BUT NO ONE ANSWERED. I CONTINUED AND DRAGGED MYSELF TO
25 ANOTHER NEIGHBOR'S HOUSE. I KNOCKED ON THEIR DOOR AND I

1 SCREAMED, "POLICE. POLICE." I FELL UNCONSCIOUS FOR A
2 MOMENT.

3 THE POLICE AND MY OLDEST SON CAME A
4 LITTLE LATER. WE FOUND THAT MY \$2,000 AND MY SON'S
5 MONEY AND MY DAUGHTER-IN-LAW'S JEWELRY HAD ALL BEEN
6 TAKEN. THE POLICE CALLED FOR AN AMBULANCE, BUT I DIDN'T
7 GO TO THE HOSPITAL. I WAS NOT BLEEDING AT THE TIME. I
8 HAD REGAINED MY CONSCIOUSNESS, AND I WAS CONCERNED ABOUT
9 THE BILLS A TRIP TO THE HOSPITAL MIGHT COST.

10 AS SOON AS I REALIZED IT WAS ALL OVER, I
11 FELT PAIN. I NEEDED A CANE EVERYWHERE I WENT, EVEN
12 THOUGH I HAD NOT NEEDED ONE BEFORE. THE MEN'S FACES
13 HAUNTED ME SO I WAS AFRAID OF BEING ALONE OR HOME. I
14 WAS AFRAID OF CLOSING MY EYES TO GO TO SLEEP. THEIR
15 THREATENING EYES AND SMILING FACES THAT THEY SHOWED ME
16 WHEN THEY FIRST KNOCKED ON THE DOOR HAUNTED ME. MY
17 GRANDDAUGHTER, WHO WAS IN MIDDLE SCHOOL AT THE TIME,
18 ALSO FEARED BEING HOME ALONE. MY LEGS HAVE BECOME SO
19 SWOLLEN AT NIGHT THAT I HAVE BEEN UNABLE TO WALK AND I
20 AM SO SCARED THAT I DO NOT WANT TO GO OUT FOR A WALK. I
21 DREAM ONLY OF VISITING KOREA, BUT THIS DREAM WAS TAKEN
22 AWAY WHEN THE MONEY THAT I HAD SAVED WAS TAKEN FROM ME.
23 EVERYTHING LOOKED SO PEACEFUL BEFORE, BUT NOW I FEEL
24 STRANGE, AND I AM SCARED OF MEETING PEOPLE.

25 MR. CHO FINALLY ASKS THAT THE COURT

1 EXERCISE A FAIR AND STERN JUDGMENT UPON THE INDIVIDUALS
2 RESPONSIBLE SO THAT OTHER CITIZENS DO NOT HAVE TO
3 EXPERIENCE THEIR LIVES CRASHING DOWN.

4 BING JING ZHENG AND HER MOTHER, WHO WERE
5 THE VICTIMS OF THE MAY 7TH ROBBERY ON ASHTON ROAD IN
6 UPPER DARBY, SUBMITTED STATEMENTS. MS. ZHENG WRITES, ON
7 MAY 8, 2015, A LITTLE AFTER 2 P.M., MY ONE-YEAR-OLD SON
8 AND I WERE ROBBED AT GUNPOINT IN OUR HOME ON ASHTON
9 ROAD. THIS INCIDENT HAS CAUSED GREAT DAMAGE TO ME
10 MENTALLY. ALTHOUGH MY MOM HIRED SOMEONE TO INSTALL
11 CAMERAS AND SECURITY ALARMS IMMEDIATELY AFTER THE
12 ROBBERY, I HAVE BEEN LIVING IN CONSTANT FEAR EVERY DAY.
13 I WOULD LISTEN CAREFULLY TO SEE IF THERE WAS ANY MOMENT
14 IN THE BASEMENT -- ANY MOVEMENT, RATHER, IN THE BASEMENT
15 OR LIVING ROOM, THE ENTRANCE OR ON THE SECOND FLOOR,
16 FEELING LIKE THERE MAY BE ROBBERS IN OUR HOUSE AGAIN.
17 FOR A LONG PERIOD OF TIME AFTER THE INCIDENT, I WAS
18 AFRAID TO LEAVE THE HOUSE AND TERRIFIED OF SEEING
19 STRANGERS. IT MADE ME EXTREMELY INSECURE AND I AM
20 AFRAID TO GO TO WORK. I TRIED TO GO TO WORK, BUT I GAVE
21 UP EVENTUALLY BECAUSE I WAS FEARFUL OF THOSE AROUND ME.
22 THIS TERRIFIED ME AND MADE ME ANXIOUS, AND I WAS NOT
23 ABLE TO CONTINUE TO WORK NORMALLY. ALTHOUGH I HAVE BEEN
24 ABLE TO OVERCOME MY FEAR WITH HELP FROM MY FAMILY, I AM
25 FOREVER SCARRED BY THIS EMOTIONAL TRAUMA.

1 HER MOTHER, SUHUI ZHANG, ALSO SUBMITTED A
2 STATEMENT. I AM THE VICTIM AND OWNER OF THE PROPERTY ON
3 ASHTON ROAD WHERE THERE WAS A GUNPOINT ROBBERY THAT TOOK
4 PLACE. I HAVE BEEN LIVING IN FEAR EVERY SINGLE DAY. ON
5 THE DAY THE INCIDENT HAPPENED, ONLY MY OLDEST DAUGHTER
6 AND HER ONE-YEAR-OLD SON WERE HOME AT THE TIME. I BROKE
7 DOWN WHEN I HEARD THAT THERE WAS A GUNPOINT ROBBERY AT
8 HOME, BECAUSE I WAS SO WORRIED ABOUT THE SAFETY OF MY
9 CHILDREN. SINCE THEN, THE INERASABLE SHADOW HAS BEEN
10 LEFT IN ME AND MY FAMILY. ALTHOUGH WE INSTALLED CAMERAS
11 AND ALARMS, IT STILL DOES NOT HELP ME SLEEP AT NIGHT. I
12 GET UP AND CHECK WHENEVER I HEAR ANY MOTION. I HAVE
13 BEEN SUFFERING FROM INSOMNIA SINCE THE TIME OF THIS
14 ROBBERY. I CONSTANTLY WORRY THAT BAD THINGS MIGHT
15 HAPPEN AGAIN IN THE HOME WHILE I AM WORKING DURING THE
16 DAY. LIVING IN THE SHADOW OF CONSTANT FEAR HAS CAUSED
17 US GREAT HARM. A PORTION OF THE MONEY THAT WAS TAKEN
18 WAS ACTUALLY MONEY THAT BELONGED TO MY RELATIVES, AND I
19 HAVE STILL NOT BEEN ABLE TO REPAY THEM IN FULL. THE
20 ROBBERS ALSO CLEARED OUT JEWELRY, MANY OF MY FAVORITE
21 THINGS WHICH WERE LEFT BEHIND IN THAT HOME. IT ACHES MY
22 HEART EVERY DAY.

23 LIXIA WANG, WHO IS PRESENT IN THE COURT
24 TODAY SUBMITTED AN IMPACT STATEMENT WHICH READS: I WAS
25 ROBBED AT MY HOME BY CRIMINALS WITH GUNS AT NOON ON MAY

1 19, 2015. LONG AFTER THE INCIDENT, I HAVE BEEN AFRAID
2 OF BEING HOME ALONE AND AFRAID TO GO OUT BY MYSELF.
3 WHEN IT'S NOONTIME, I SUFFER FROM HEADACHES, FEVER AND
4 FROM CHEST PAINS. I AM NOT ABLE TO SLEEP AT ALL AT
5 NIGHT IF THERE IS ANY NOISE OUTSIDE. MY HEALTH HAS BEEN
6 GREATLY IMPACTED. FOR AN HOUR, I WAS HELD IN A ROOM
7 WITH AN EXTREMELY DANGEROUS MAN WHO HELD A GUN TO ME. I
8 FEEL EXTREME DANGER AND FEAR EVERY MOMENT AND EVERY
9 SECOND, WHICH HAS SERIOUSLY DISTURBED MY NORMAL LIFE. I
10 OFTEN SUFFER HALLUCINATIONS. I AM FEARFUL OF SHADOWS
11 BEHIND ME, AND I AM AFRAID OF NOISES THAT I HEAR IN MY
12 EAR. MY FRIEND, WHO CAME TO VISIT FROM NEW YORK, WAS SO
13 SCARED, AND SHE STARTED HAVING MENTAL PROBLEMS. SHE HAS
14 NOW RETURNED TO CHINA.

15 THE FRIEND THAT MS. WANG REFERS TO IS THE
16 OTHER INDIVIDUAL WHO WAS IN THE HOME AT THE TIME OF THE
17 ROBBERY, WHO WAS LED FROM AN UPSTAIRS BEDROOM DOWN TO
18 THE BASEMENT, WHERE LIXIA WANG WAS.

19 ALTHOUGH I AM STILL VERY SCARED, IT HAS
20 BROUGHT MANY INCONVENIENCES TO MY LIFE, BUT MY HEART IS
21 FULL OF APPRECIATION. I TRY TO BE BRAVE. I TRIED TO BE
22 BRAVE ENOUGH TO TESTIFY. I BELIEVE THAT JUSTICE WILL
23 PREVAIL. AND I AM FULL OF APPRECIATION BECAUSE OF THE
24 MANY DECENT AND KIND PEOPLE WHO HAVE TRUSTED ME AND
25 BROUGHT ME WARMTH.

1 FINALLY, MS. LADINE SEAM, WHO IS HERE IN
2 COURT TODAY, SUBMITTED AN IMPACT STATEMENT WHICH READS
3 AS FOLLOWS: JUNE 15TH OF 2015 WAS THE WORST DAY OF MY
4 LIFE. WHAT HAPPENED TO ME AND MY SON ON THAT DAY
5 CHANGED OUR LIVES FOREVER. THE DEFENDANT AND HIS
6 CONSPIRATORS INVADED MY HOME, BEAT MY SON WITH A GUN,
7 TIED US UP, STOLE MONEY AND IRREPLACEABLE JEWELRY. WE
8 LOST THE FEELING OF SAFETY IN OUR HOME, AND WE HAVE NOT
9 RECOVERED FROM THIS TRAUMATIC LOSS. SINCE THE DAY OF
10 THE INCIDENT, WE HAVE LOST OUR ABILITY TO FEEL SAFE AT
11 HOME AND IN QUIET PLACES. I AM VERY NERVOUS WHEN I AM
12 IN QUIET PLACES. I LOOK OVER MY SHOULDER TO SEE WHO MAY
13 BE BEHIND ME, AND I AM SKEPTICAL OF EVERYONE AND
14 EVERYTHING NOW. MY OWN HOME IS WHERE I FEEL THE MOST
15 VULNERABLE. I CANNOT SIT ALONE AND RELAX IN MY BACKYARD
16 ANYMORE. I CANNOT RELAX WHILE TAKING A SHOWER; IT'S
17 DIFFICULT FOR ME SOMETIMES. I COME OUT MID-SHOWER
18 BECAUSE I HEAR A BREAK IN THE NOISE, AND I LOOK AROUND
19 THE HOUSE TO MAKE SURE THERE IS NO ONE THERE. EVERY DAY
20 I STILL REMEMBER THE TERROR OF HEARING MY SON SCREAM AND
21 SEEING ALL THE BLOOD ALL OVER THE STAIRS AND THE
22 HALLWAY. AT THE MOMENT, I THOUGHT HE WAS GOING TO DIE.
23 THE DAY BEFORE THE INCIDENT, I HAD JUST BURIED MY
24 GRANDMOTHER. THE DEFENDANT STOLE ALL OF THE JEWELRY
25 WHICH SHE HAD MADE ME PROMISE NEVER TO SELL. SHE WANTED

1 ME TO CHERISH IT AND PASS DOWN TO MY SON AND HIS
2 CHILDREN. I CAN NO LONGER DO THAT BECAUSE IT WAS STOLEN
3 BY THE DEFENDANT. I CANNOT REPLACE THAT JEWELRY, AND IT
4 WAS SO SENTIMENTAL TO ME. AS I HAVE SAID BEFORE,
5 JUNE 15TH WAS THE WORST DAY OF MY LIFE. MY SON AND I
6 HAVE NEVER FORGOTTEN HOW SCARED AND HORRIFIED WE FELT,
7 AND WE STILL FEEL. WE WILL NEVER BE BACK TO NORMAL. I
8 AM ASKING YOUR HONOR TO SENTENCE THE CRIMINALS TO THE
9 LONGEST SENTENCE POSSIBLE. HE DOES NOT DESERVE TO BE
10 OUT ON THE STREET WITH REGULAR PEOPLE BECAUSE HE IS SO
11 VERY DANGEROUS. I TRULY BELIEVE THAT HE WILL COMMIT
12 FURTHER CRIMES AND TERRORIZE MORE FAMILIES AGAIN IF HE
13 IS OUT. I AM NOT THE ONLY VICTIM.

14 IN ADDITION TO THE VICTIMS IN THIS CASE,
15 AS I MENTIONED, THE ASIAN PACIFIC AMERICAN BAR
16 ASSOCIATION SUBMITTED A VICTIM IMPACT STATEMENT IN WHICH
17 THEY TALK SPECIFICALLY ABOUT THE NATURE OF CRIMES
18 TARGETING THE ASIAN AMERICAN COMMUNITY, PARTICULARLY
19 ASIAN AMERICAN BUSINESS OWNERS. THEY EXPLAIN THE
20 HISTORY OF IMMIGRATION TO THIS COUNTRY, THE EXCLUSION AS
21 NONCITIZENS, THE RACIAL BARRIERS AND THE LANGUAGE
22 BARRIERS WHICH HAVE OFTEN LED TO ASIAN AMERICANS OPENING
23 SMALL BUSINESSES WHEN THEY WERE NOT ABLE TO FIND
24 EMPLOYMENT ELSEWHERE, AND THE EXTENT TO WHICH THE
25 COMMUNITY IS IMPACTED BY THESE CRIMES. THEY HAVE

1 TERRORIZED NOT JUST THE INDIVIDUAL VICTIMS WHO WERE IN
2 THEIR HOMES, BUT MEMBERS OF THE COMMUNITY WHO SEE
3 THEMSELVES AS POTENTIAL VICTIMS TIME AND TIME AGAIN OF
4 THIS VERY KIND OF HOME INVASION.

5 WE HEARD TESTIMONY DURING COURT FROM
6 STERLING WALLACE THAT THE DEFENDANT, TYREE MANSELL,
7 SPECIFICALLY TARGETED ASIAN BUSINESS OWNERS BECAUSE OF A
8 BELIEF THAT THEY KEPT CASH AND PROCEEDS IN THEIR HOME
9 THAT THEY MAKE EASY TARGETS, AND BECAUSE HE BELIEVED
10 THEY WERE UNLIKELY TO NOTIFY AUTHORITIES. THIS IS
11 SOMETHING THAT HAS IMPACTED THE ASIAN AMERICAN COMMUNITY
12 AT LARGE AND, MANY MEMBERS OF THE BAR ASSOCIATION, AND
13 IN PARTICULAR OF THE GREATER PHILADELPHIA CHINESE
14 RESTAURANT ASSOCIATION ARE HERE IN COURT TODAY FOR THAT
15 REASON.

16 THE GREATER PHILADELPHIA CHINESE
17 RESTAURANT ASSOCIATION HAS ALSO SUBMITTED AN IMPACT
18 STATEMENT, IN WHICH THEY SAY THAT IN 2016, THERE WAS A
19 SPREE OF GUNPOINT HOME INVASION ROBBERIES THAT TARGETED
20 ASIAN AMERICAN BUSINESS OWNERS THROUGHOUT THE CITY. IN
21 SEVERAL OF THOSE CASES, THERE WERE CHILDREN AT HOME WHO
22 WERE VICTIMS OF THOSE ROBBERIES, THAT GUNS WERE POINTED
23 DIRECTLY AT THOSE CHILDREN, AND THAT THIS COMMUNITY HAS
24 BEEN DEEPLY TRAUMATIZED THROUGH THE PROLIFERATION OF
25 THESE TYPES OF CRIMES. THEY WRITE THAT ASIAN AMERICANS

1 ARE EASY TARGETS BECAUSE CRIMINALS BELIEVE THAT THEY
2 KEEP CASH AT HOME. THEY DO NOT SPEAK ENGLISH AND OFTEN
3 DO NOT REPORT THESE CRIMES. AND FOR THIS REASON, THEY
4 ASK THE COURT TO GIVE THE DEFENDANT THE HIGHEST SENTENCE
5 TO ENSURE THE SAFETY OF THEIR COMMUNITY AND OF OTHER
6 IMMIGRANTS IN THE GREATER PHILADELPHIA AREA.

7 YOUR HONOR, SUBSTANTIALLY FOR THE REASONS
8 ARTICULATED IN THE GOVERNMENT'S SENTENCING MEMORANDUM,
9 WE BELIEVE THAT A GUIDELINE SENTENCE OF EFFECTIVELY 444
10 MONTHS OR LIFE IMPRISONMENT IS APPROPRIATE IN THIS CASE.
11 MR. MANSELL IS A VIOLENT RECIDIVIST. WE HAVE SEEN FROM
12 HIS CRIMINAL HISTORY NOT ONLY A SERIES OF JUVENILE
13 ADJUDICATIONS, BUT TWO VIOLENT HOME INVASION FELONY
14 CONVICTIONS, ONE IN THE STATE AND ONE RECENTLY IN
15 FEDERAL COURT, YOUR HONOR, WHERE THE DEFENDANT PLED
16 GUILTY BEFORE THE HONORABLE TIMOTHY SAVAGE. AND AT THAT
17 TIME, MADE APOLOGIES TO THE INDIVIDUALS THAT HE
18 VICTIMIZED, BUT THREE WEEKS AFTER BEING RELEASED ON A
19 60-MONTH SENTENCE HE WAS GIVEN IN THAT CASE, COMMITTED
20 THE FIRST OF THE ROBBERIES WHICH WE HAVE SEEN IN THESE
21 INSTANT CRIMES.

22 MR. MANSELL NOT ONLY HAS MADE KIND OF A
23 CAREER OF THESE KIND OF HOME INVASION ROBBERIES, BASED
24 ON HIS PRIOR CRIMINAL HISTORY AND THE FOUR ROBBERIES HE
25 COMMITTED HERE, BUT IN THIS CASE, HE UTILIZED HIS

1 17-YEAR-OLD NEPHEW, WHO HE GOT INVOLVED AS THE DRIVER IN
2 THIS CASE. HE ENGAGED HIM IN VIOLENT FELONIES, AT LEAST
3 FOUR OF THEM. AND HIS NEPHEW THEN WAS SENTENCED IN THE
4 STATE FOR NOW FELONY CONVICTIONS. SOMEONE WHO IS A
5 YOUNG MAN WHO IS QUITE IMPRESSIONABLE, WHOSE MOTHER HAS
6 WORKED FOR A LONG TIME AT CHOP AND WHO WAS HOPING THAT
7 HER SON WOULD BE ABLE TO GET A GREAT JOB AFTER
8 GRADUATION, WHICH SHE FEARS IS NO LONGER POSSIBLE GIVEN
9 HIS NEW CRIMINAL HISTORY.

10 AS WE HAVE DISCUSSED IN FRONT OF THE
11 COURT, THE NATURE OF THESE CRIMES WAS INCREDIBLY SCARY,
12 INCREDIBLY VIOLENT AND VERY TRAUMATIC FOR THE VICTIMS.
13 IN ADDITION TO THE COMMISSION OF THESE ROBBERIES, THE
14 DEFENDANT FLED FROM THE LAST OF THESE, LEAVING HIS YOUNG
15 NEPHEW TO TAKE THE FALL, AS WELL AS THE OTHER
16 ACCOMPLICES IN THIS CASE. HE DID NOT TURN HIMSELF IN,
17 BUT, IN FACT, WAS CAPTURED AFTER A SERIES OF CALLS AND
18 WITNESSES CAME FORWARD IDENTIFYING HIS LOCATION. AND HE
19 THREATENED THOSE WHO WOULD TESTIFY AGAINST HIM IN THIS
20 CASE AGAINST TESTIFYING. FOR THAT REASON, I THINK THE
21 NATURE AND SERIOUSNESS OF THE OFFENSE IS WELL
22 ESTABLISHED UNDER THE 3553(E) FACTORS.

23 WHEN WE LOOK AT THE DEFENDANT'S CRIMINAL
24 HISTORY, WE SEE SOMEONE WHOSE RECIDIVISM HAS, INDEED --
25 HAS NOT BEEN STEMMED BY ANY OF THE PRIOR SENTENCES OR

1 JUVENILE ADJUDICATIONS HE'S RECEIVED. HE IS SOMEONE WHO
2 WITHIN A FEW MONTHS AFTER HIS RELEASE FROM THE FIRST
3 HOME INVASION, WHICH HE WAS CONVICTED IN 1998, WENT OUT
4 AND COMMITTED ANOTHER VIOLENT HOME INVASION ROBBERY.
5 AND WITHIN 24 DAYS OF BEING RELEASED FROM JUDGE SAVAGE'S
6 60-MONTH SENTENCE, WENT OUT AND BEGAN THIS SPREE OF
7 ROBBERIES.

8 THE SENTENCES THAT HE HAS FACED IN THE
9 PAST HAVE NOT DONE ENOUGH TO DETER HIM FROM COMMITTING
10 THIS CONDUCT, AND FOR THAT REASON WE THINK A STRONG
11 SENTENCE IS VERY IMPORTANT. HE HAS SHOWN THAT
12 IMMEDIATELY UPON HIS RELEASE, HE RESUMES THIS PARTICULAR
13 KIND OF CRIME. AND SO INCAPACITATING THE DEFENDANT
14 THROUGH INCARCERATION SEEMS TO BE ONE OF THE ONLY WAYS
15 TO ACTUALLY KEEP THE PUBLIC SAFE FROM ADDITIONAL
16 ROBBERIES THAT THE DEFENDANT MIGHT WISH TO PARTICIPATE
17 IN.

18 NOT ONLY IS INDIVIDUAL DETERRENCE AN
19 IMPORTANT FACTOR IN THIS CASE, BUT SENDING A MESSAGE TO
20 OTHERS WHO MIGHT LOOK TO THE SENTENCE THAT THE COURT
21 GIVES AS GUIDANCE AS TO WHAT THEY MAY PERMISSIBLY DO AND
22 THE TIME THAT THEY MAY FACE IS ALSO IMPORTANT TO
23 CONSIDER. THESE WERE INCREDIBLY DANGEROUS, SERIOUS
24 CRIMES IN WHICH VICTIMS WERE HELD AT GUNPOINT, BEATEN IN
25 THEIR HOMES, BEATEN WITH FIREARMS AND BOUND BY THEIR

1 WRISTS AND ANKLES IN EACH OF THESE INSTANCES TO PRECLUDE
2 THEIR ESCAPE AND TO FACILITATE THE DEFENDANT AND HIS OWN
3 GETTING AWAY. FOR THESE REASONS WE THINK THAT A
4 SENTENCE WITHIN THE STATUTORY GUIDELINES RANGE OF
5 444 MONTHS TO LIFE IS APPROPRIATE HERE, AND THAT THE
6 DEFENDANT HAS NOT SUBMITTED ANY APPROPRIATE
7 JUSTIFICATION FOR A DOWNWARD VARIANCE IN THIS CASE, YOUR
8 HONOR. THANK YOU.

9 THE COURT: MR. HARDEN, I WILL HEAR FROM
10 YOUR CLIENT IF HE WISHES TO ADDRESS THE COURT.

11 MR. HARDEN: YOUR HONOR, MY CLIENT WISHES
12 NOT TO ALLOCUTE.

13 THE COURT: CAN I HAVE HIM PUT THAT ON
14 THE RECORD?

15 THE DEFENDANT: I WISH NOT TO SPEAK.

16 THE COURT: OKAY, THANK YOU, MR. MANSELL.

17 THIS COURT, IN FORMULATING A SENTENCE,
18 HAS A NUMBER OF FACTORS TO CONSIDER. ONE IS THE
19 DEFENDANT WHO APPEARS BEFORE ME. AS MR. HARDEN SAYS,
20 THERE IS NOT TOO MUCH POSITIVE THINGS THAT CAN BE SAID
21 ABOUT MR. MANSELL AND HIS LIFE. HE HAS HAD A VERY
22 UNFORGIVING LIFE. HE HAS BEEN AFFECTED BY BEING IN THE
23 CARE OF THE STATE. HE HAS SPENT MOST OF HIS LIFE IN
24 PRISON. HE HAS BEEN PLACED IN JUVENILE PLACEMENTS, AND
25 HE HAS BEEN IN STATE AND FEDERAL PRISON, BUT THAT IS NO

1 EXCUSE. THERE ARE MANY PERSONS WHO HAVE HAD LIMITED OR
2 NO FAMILY AND HAVE STILL BEEN ABLE TO OVERCOME THOSE
3 FACTORS.

4 THIS DEFENDANT IS A VIOLENT RECIDIVIST.
5 HE HAS AN EXTENSIVE CRIMINAL HISTORY AND, AS NOTED BY
6 THE GOVERNMENT, IT WAS A MATTER OF WEEKS BEFORE HE WAS
7 RELEASED FROM FEDERAL PRISON WHEN HE ENGAGED IN THIS
8 TYPE OF ACTIVITY. WHILE SOME PERSONS GO OUT TO WORK
9 EVERY DAY, AND THAT'S THEIR CAREER, THAT'S THEIR JOB, IT
10 APPEARS THAT MR. MANSELL'S JOB, OR AT LEAST HE THOUGHT
11 IT WAS HIS JOB, OR CLEARLY HIS CAREER, AS A VIOLENT
12 RECIDIVIST. IT IS IMPORTANT THAT HE BE DETERRED AND
13 THAT OTHERS WHO THINK ABOUT ENGAGING IN THIS TYPE OF
14 ACTIVITY BE DETERRED.

15 IT IS NECESSARY FOR THE PROTECTION OF THE
16 COMMUNITY, THE ASIAN AMERICAN COMMUNITY SPECIFICALLY,
17 AND THE COMMUNITY IN GENERAL THAT HE BE SENTENCED TO A
18 SUBSTANTIAL PERIOD OF TIME IN CUSTODY.

19 THE DEFENDANT HAS NO RESPECT FOR THE LAW.
20 HE HAS NO RESPECT FOR THE FAMILY THAT HAD CONTACT WITH
21 HIM IN THAT HE WOULD INFLUENCE HIS 17-YEAR-OLD NEPHEW TO
22 PARTICIPATE IN THIS KIND OF ACTIVITY. THE VICTIMS
23 CLEARLY NO LONGER FEEL SAFE IN THEIR HOMES AND IN THEIR
24 EVERYDAY ACTIVITIES. THEY HAVE BEEN UNABLE TO ENJOY THE
25 BENEFITS OF THEIR HARD WORK AND TO ENJOY THE AMERICAN

1 DREAM WHICH HAS BEEN PROMISED TO THEM WHEN THEY CAME
2 HERE, SOME AS CITIZENS AND SOME AS WORKERS.

3 AGAIN, FOR THE PROTECTION OF THE
4 COMMUNITY AS A WHOLE AND RESPECT FOR THE LAW, THIS COURT
5 WILL IMPOSE THE FOLLOWING SENTENCE: FOR COUNTS 1 AND
6 COUNTS 2, 4, 6 AND 8, THE COURT IMPOSES A SENTENCE OF
7 360 MONTHS CONCURRENT ON EACH COUNT, AND ON COUNT 9,
8 84 MONTHS CONSECUTIVE FOR A TOTAL OF 444 MONTHS IN
9 PRISON. THE COURT IMPOSES FIVE YEARS SUPERVISED
10 RELEASE. I DO NOT RECOMMEND A FINE. I IMPOSE A SPECIAL
11 ASSESSMENT. AND THE RESTITUTION THAT HAS BEEN PASSED TO
12 THE COURT IS A TOTAL AMOUNT RESTITUTION OF \$139,250.
13 THAT INCLUDES CASH IN THE AMOUNT OF \$50,900 AND JEWELRY
14 IN THE AMOUNT OF \$88,350.

15 I AM NOT SURE ON WHICH COUNTS THE
16 DEFENDANT IS JOINTLY AND SEVERALLY LIABLE.

17 MS. OSIRIM: SO ON EACH OF THESE COUNTS,
18 THE DEFENDANT IS JOINTLY AND SEVERALLY LIABLE WITH
19 STERLING WALLACE, AND ONLY ON COUNTS 6 AND 8 IS HE ALSO
20 JOINTLY AND SEVERALLY LIABLE WITH JAMAIN WALLACE --
21 SORRY, ON COUNTS 8 AND 9.

22 THE COURT: 8 AND 9?

23 MS. OSIRIM: 8 AND 9 IS JOINT AND SEVERAL
24 LIABILITY WITH JAMAIN WALLACE, STERLING WALLACE AND
25 TYREE MANSELL. ON COUNTS 1, 2, 4 AND 6, HE IS JOINTLY

1 AND SEVERALLY LIABLE WITH STERLING WALLACE ONLY.

2 THE COURT: OKAY. MR. HARDEN, CAN YOU
3 ADVISE YOUR CLIENT OF HIS RIGHTS TO APPEAL?

4 MS. OSIRIM: YOUR HONOR, IF WE MAY, I
5 THINK MR. PISAKI AND I WOULD LIKE TO APPROACH JUST TO
6 DISCUSS ONE MATTER WITH THE SENTENCE.

7 THE COURT: YES.

8 (SIDEBAR OCCURRED.)

9 MS. OSIRIM: UNDER SECTION 1951, THE
10 STATUTORY MAXIMUM SENTENCE FOR EACH INDIVIDUAL COUNT OF
11 ROBBERY CANNOT EXCEED 20 YEARS, 240 MONTHS. SO THE
12 SENTENCE AS CONSTRUED IS TECHNICALLY A NON-PERMISSIBLE
13 SENTENCE. IT WOULD NEED TO BE THAT THE COUNTS FOR EACH
14 OF THESE ROBBERIES ARE RUNNING SOMEWHAT CONSECUTIVELY TO
15 360 MONTHS.

16 THE COURT: NO MORE.

17 MS. OSIRIM: RIGHT, NO MORE, NOT THAT
18 THEY ARE RUNNING CONCURRENT WITH ONE ANOTHER.

19 MR. HARDEN: SHOULD WE COME UP WITH --

20 MS. OSIRIM: SO 72 MONTHS' SENTENCE ON
21 EACH OF THE ROBBERIES WOULD ADD UP TO A 360-MONTH
22 SENTENCE FOR ALL OF THE ROBBERIES TO RUN CONSECUTIVE.

23 AND YES, THE GOVERNMENT DID SUBMIT A
24 MOTION FOR FORFEITURE, WHICH WE WILL ASK THE COURT TO
25 IMPOSE AS WE TAKE OUR SEAT.

1 THE COURT: YES, IT WILL BE ORDERED
2 TODAY, THE FIRST DAY OF DECEMBER.

3 (SIDEBAR CONCLUDED.)

4 THE COURT: OKAY. MR. HARDEN, CAN YOU
5 ADVISE YOUR CLIENT OF HIS RIGHTS TO APPEAL?

6 MR. HARDEN: MR. MANSELL, YOU HAVE JUST
7 BEEN SENTENCED BY THE HONORABLE PETRESE B. TUCKER.

8 ARE YOU GOING TO MODIFY --

9 THE COURT: THE SENTENCE IS STILL
10 444 MONTHS. IT IS, HOWEVER, BROKEN DOWN PER COUNT,
11 72 MONTHS FOR COUNTS 1, 2, 4, 6 AND 8, AND ON COUNT 7 IS
12 STILL 84 MONTHS, ALL TO RUN CONSECUTIVE. SO THE TOTAL
13 IS STILL 444 MONTHS.

14 MR. HARDEN: MR. MANSELL, WHAT HAPPENED
15 AT SIDEBAR IS THAT THE SENTENCE WAS MODIFIED SO THAT YOU
16 HAVE BEEN SENTENCED TO THE STATUTORY MAXIMUM OF
17 20 YEARS, YOU HAVE BEEN SENTENCED CONSECUTIVE TO
18 72 MONTHS ON COUNTS 1, 2, 4, 6 AND 8. CONSECUTIVE MEANS
19 THEY ARE GOING TO RUN IN SUCCESSION TO EACH OTHER, WHICH
20 IS ONE AFTER THE OTHER, NOT TOGETHER AT THE SAME TIME.
21 AND THEN YOU WERE SENTENCED TO A CONSECUTIVE TERM OF
22 84 MONTHS ON THE COUNT OF 924(C), WHICH IS MANDATORY.

23 YOU HAVE 14 DAYS TO FILE A NOTICE OF
24 APPEAL.

25 YOUR HONOR, I AM NO LONGER ON THE CJA

1 PANEL. I WILL FILE THE NOTICE OF APPEAL FOR MR.
 2 MANSELL. I WOULD REQUEST A REPLACEMENT COUNSEL FROM THE
 3 CJA PANEL BE GIVEN TO MR. MANSELL WITH REGARD TO THAT.
 4 WE HAVE DISCUSSED THIS; I WAS PROVIDED TO YOU THROUGH
 5 THE CRIMINAL JUSTICE ACT. I WILL FILE A NOTICE OF
 6 APPEAL WITHIN 14 DAYS AND THEN THE COURT WILL PROVIDE IT
 7 TO THE ATTORNEY.

8 MR. MANSELL HAS REQUESTED THAT THE
 9 DISCOVERY AND TRANSCRIPT BE ALLOWED TO BE GIVEN TO HIM.

10 THE COURT: YES.

11 MS. OSIRIM: AND LASTLY, YOUR HONOR, THE
 12 GOVERNMENT DID FILE A MOTION FOR JUDGMENT AND A
 13 PRELIMINARY ORDER OF FORFEITURE, WHICH WE ASK THE COURT
 14 TO GRANT AT THIS TIME.

15 THE COURT: THE COURT WILL GRANT THE
 16 MOTION AND WILL SIGN OFF ON TODAY'S DATE.

17 OKAY.

18 (COURT ADJOURNED.)

19

20

21 I N D E X

22

23 WITNESS DIRECT CROSS REDIRECT RECROSS

24 JOSEPH MILLIGAN 8 15 25 -

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I CERTIFY THAT THE FOREGOING IS A CORRECT
TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
ABOVE-ENTITLED MATTER.

DATE OFFICIAL COURT REPORTER
LYNN MCCLOSKEY, RPR

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