

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JERMAINE GERALD COOK, MARCUS ANTHONY FOREMAN, TERRY
CARRY HOLLINS, and WILBERT ROSS, III

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition For A Writ of *Certiorari* To The United States Court of Appeals
for the Ninth Circuit**

**APPENDIX (VOLUME II) – PRESENTED SEPARATELY UNDER S. CT.
R. 14.1(i)**

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1 (charged elsewhere) to assist in going from San Diego, California, to
2 San Bernardino, California, to pick up approximately 330 kilograms of
3 marijuana.

4 Overt Act No. 55: On January 16, 2014, WCC associated Gaquayla
5 Aunicia Lagron (charged elsewhere) rented a van for Randy Alton
6 Graves (charged elsewhere) and WCC member Dameon Desean Shelton
7 (charged elsewhere) to use in picking up approximately 330 kilograms
8 of marijuana from San Bernardino, California.

9 Overt Act No. 56: On January 16, 2014, Randy Alton Graves
10 (charged elsewhere), WCC member Dameon Desean Shelton (charged
11 elsewhere), and WCC associate Luis Salgado-Viscarra (charged
12 elsewhere) traveled from San Diego, California, to San Bernardino,
13 California, for the purpose of picking up approximately 330 kilograms
14 of marijuana.

15 Overt Act No. 57: On January 15, 2014, Randy Alton Graves
16 (charged elsewhere) and Cleotha Young (charged elsewhere) discussed
17 over the phone ways to promote their respective prostitution
18 businesses.

19 Overt Act No. 58: On February 4, 2014, Randy Alton Graves
20 (charged elsewhere) agreed to sell WCC associate Brandon Lamar
21 Whittle (charged elsewhere) narcotics.

22 Overt Act No. 59: Beginning at an unknown date and continuing
23 up to February 7, 2014, Randy Alton Graves (charged elsewhere) supplied
24 WCC associate Brandon Lamar Whittle (charged elsewhere) with
25 multiple quantities of narcotics, including "quarters" [1/4 ounces of
26 narcotics] and "balls" [1/8 ounces of narcotics].

27 Overt Act No. 60: On February 7, 2014, Randy Alton Graves
28 (charged elsewhere) told defendant TERRY CARRY HOLLINS that a WCC

1 member's cooperation with law enforcement authorities was a
2 "violation" of WCC rules that had to be "dealt with."

3 Overt Act No. 61: On February 7, 2014, Randy Alton Graves
4 (charged elsewhere) authorized defendant TERRY CARRY HOLLINS to
5 murder Paris Hill.

6 Overt Act No. 62: On February 12, 2014, Randy Alton Graves
7 (charged elsewhere) sold WCC member Leon Franklin (charged elsewhere)
8 3/4 of an ounce of crack cocaine for redistribution to others.

9 Overt Act No. 63: On February 12, 2014, as WCC member Leon
10 Franklin (charged elsewhere) was being arrested, Franklin attempted
11 to intimidate the arresting officers by identifying himself as a
12 Crip.

13 Overt Act No. 64: On February 13, 2014, Randy Alton Graves
14 (charged elsewhere) sold WCC member Andre Lamar Harrison (charged
15 elsewhere) approximately 3 grams of crack cocaine.

16 Overt Act No. 65: On February 13, 2014, Randy Alton Graves
17 (charged elsewhere) and WCC associate Gaquayla Aunicia Lagrone
18 (charged elsewhere) agreed to distribute crack cocaine.

19 Overt Act No. 66: On February 18, 2014, Randy Alton Graves
20 (charged elsewhere) and WCC associate Gaquayla Aunicia Lagrone
21 (charged elsewhere) distributed crack cocaine.

22 Overt Act No. 67: On February 28, 2014, Randy Alton Graves
23 (charged elsewhere) sold 5 grams of cocaine to Cleotha Young (charged
24 elsewhere).

25 Overt Act No. 68: On February 28, 2014, WCC associate
26 Solcamire Castro-Hernandez (charged elsewhere) encouraged Randy Alton
27 Graves (charged elsewhere) to distribute cocaine to Cleotha Young
28 (charged elsewhere).

1 Overt Act No. 69: At some time prior to March 1, 2014, WCC
2 member Darnell James Butler (charged elsewhere) informed Randy Alton
3 Graves (charged elsewhere) that he had seen "paperwork" on Paris Hill
4 [documentation of Hill's cooperation with the prosecution] for the
5 purpose of "blue lighting" [authorizing the killing of] Paris Hill.

6 Overt Act No. 70: On March 1, 2014, defendants TERRY CARRY
7 HOLLINS, JERMAINE GERALD COOK, DONALD EUGENE BANDY, and Randy Alton
8 Graves (charged elsewhere) participated in the killing of Paris Hill,
9 who was shot in the head.

10 Overt Act No. 71: On March 3, 2014, Randy Alton Graves
11 (charged elsewhere) and defendant JERMAINE GERALD COOK agreed to tell
12 a witness to Paris Hill's murder to "watch his fucking mouth."

13 Overt Act No. 72: On March 3, 2014, Randy Alton Graves
14 (charged elsewhere) ordered defendants JERMAINE GERALD COOK and
15 DONALD EUGENE BANDY to "do the bitch" [murder DF, a witness].

16 Overt Act No. 73: On March 4, 2014, Randy Alton Graves
17 (charged elsewhere) instructed defendant DONALD EUGENE BANDY to
18 obstruct the investigation into the Paris Hill murder.

19 Overt Act No. 74: On March 13, 2014, Randy Alton Graves
20 (charged elsewhere) delivered narcotics to WCC associate Brenda Liana
21 Rodriguez (charged elsewhere) for redistribution.

22 Overt Act No. 75: On March 13, 2014, WCC associate Brenda
23 Liana Rodriguez (charged elsewhere) informed Randy Alton Graves
24 (charged elsewhere) that DF [a witness] was in protective custody.

25 Overt Act No. 76: On March 13, 2014, Randy Alton Graves
26 (charged elsewhere) and WCC associate Brenda Liana Rodriguez (charged
27 elsewhere) discussed how to prevent DF [a witness] from cooperating
28 with the investigation into the Paris Hill murder.

1 Overt Act No. 77: Between March 15, 2014, and April 1, 2014,
2 Randy Alton Graves (charged elsewhere) delivered narcotics on
3 numerous occasions to defendants DONALD EUGENE BANDY and WCC
4 associate Brenda Liana Rodriguez (charged elsewhere) for
5 redistribution.

6 All in violation of Title 18, United States Code, Section 1962(d).

7 NOTICE OF SPECIAL SENTENCING FACTORS REGARDING COUNT ONE

8 It is further alleged that as to defendants TERRY CARRY HOLLINS
9 (9), aka "Caby", aka "Caby-3", aka "3", JERMAINE GERALD COOK (10),
10 aka "Tre-O", DONALD EUGENE BANDY (11), aka "DC", MARCUS ANTHONY
11 FOREMAN (12), aka "Missile", WILBERT ROSS, III, (13), aka "Coy Blue",
12 aka "Coy," that upon conviction for Count 1, each defendant faces a
13 maximum penalty of life imprisonment because the violation of
14 Title 18, United States Code, Section 1962(d) alleged in Count 1 is
15 based on racketeering activity for which the maximum penalty includes
16 life imprisonment.

17 Count 4

18 (Conspiracy to Distribute Methamphetamine)

19 Beginning on a date unknown but at least as early as August 8,
20 2013, and continuing up to and including April 24, 2014, within the
21 Southern District of California, and elsewhere, defendant RANDY ALTON
22 GRAVES (1), aka "Sweets," did knowingly and intentionally conspire
23 with other persons known and unknown to the grand jury to distribute
24 50 grams and more of methamphetamine (actual), a Schedule II
25 Controlled Substance; in violation of Title 21, United States Code,
26 Sections 841(a)(1), 841(b)(1)(A)(viii), and 846.

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Count 5

(Conspiracy to Distribute 1,000 Kilograms and More of Marijuana)

4 Beginning on or about December 23, 2013, and continuing up to
5 and including January 17, 2014, within the Southern District of
6 California, and elsewhere, defendant RANDY ALTON GRAVES (1), aka
7 "Sweets," and Cleotha Young (charged elsewhere), did knowingly and
8 intentionally conspire with other persons known and unknown to the
9 grand jury to possess with intent to distribute 1,000 kilograms and
10 more, of marijuana, a Schedule I controlled substance; in violation
11 of Title 21, United States Code, Sections 841(a)(1), and
12 841(b)(1)(A)(vii), and 846.

Count 6

(Conspiracy to Distribute Cocaine)

15 Beginning on a date unknown but at least as early as January 1,
16 2013, and continuing up to and including April 24, 2014, within the
17 Southern District of California, and elsewhere, defendant RANDY ALTON
18 GRAVES (1), aka "Sweets," did knowingly and intentionally conspire
19 with other persons known and unknown to the grand jury to distribute
20 5 kilograms and more of cocaine, a Schedule II Controlled Substance;
21 in violation of Title 21, United States Code, Sections 841(a)(1),
22 841(b)(1)(A)(ii), and 846.

Count 7

(Conspiracy to Distribute Cocaine Base)

25 Beginning on a date unknown but at least as early as January 1,
26 2013, and continuing up to and including April 24, 2014, within the
27 Southern District of California, and elsewhere, defendant RANDY ALTON
28 GRAVES (1), aka "Sweets," did knowingly and intentionally conspire

1 with other persons known and unknown to the grand jury to distribute
2 280 grams and more of cocaine base, a Schedule II Controlled
3 Substance; in violation of Title 21, United States Code,
4 Sections 841(a)(1), 841(b)(1)(A)(iii), and 846.

5 Count 8

6 (Sex Trafficking of a Minor)

7 Beginning on or about October 18, 2013, and continuing until on
8 or about October 24, 2013, within the Southern District of
9 California, and elsewhere, defendant WILBERT ROSS, III (13), aka "Coy
10 Blue", aka "Coy", in and affecting interstate commerce, knowingly did
11 recruit, entice, harbor, transport, provide, obtain, and maintain by
12 any means a person, to wit SB1, a minor over age 14, knowing and in
13 reckless disregard of the fact that (1) means of force, threats of
14 force, fraud, coercion and any combination of such means would be
15 used to cause SB1 to engage in a commercial sex act, and (2) SB1 had
16 not attained the age of 18 years and would be caused to engage in a
17 commercial sex act, having had a reasonable opportunity to observe
18 SB1; in violation of Title 18, United States Code,
19 Section 1591(a), (b) and (c).

20 Count 9

21 (Sex Trafficking by Force, Fraud or Coercion)

22 Beginning on or about October 18, 2013, and continuing until on
23 or about October 24, 2013, within the Southern District of
24 California, and elsewhere, defendant WILBERT ROSS, III (13), aka "Coy
25 Blue", aka "Coy", in and affecting interstate commerce, knowingly did
26 recruit, entice, harbor, transport, provide, obtain, and maintain by
27 any means SB2, and benefited, financially and by receiving anything
28 of value, from participation in a venture which has recruited,

1 enticed, harbored, transported, provided, obtained, and maintained by
2 any means SB2, knowing and in reckless disregard of the fact that
3 means of force, threats of force, fraud, coercion, and any
4 combination of such means will be used to cause SB2 to engage in a
5 commercial sex act; in violation of Title 18, United States Code,
6 Section 1591(a) and (b).

7 Count 10

8 (Possession With Intent to Distribute Methamphetamine)

9 On or about April 24, 2014, within the Southern District of
10 California, defendant RANDY ALTON GRAVES (1), aka "Sweets," did
11 possess, with intent to distribute, 50 grams and more of
12 methamphetamine (actual), a Schedule II Controlled Substance; in
13 violation of Title 21, United States Code, Sections 841(a)(1) and
14 841(b)(1)(A)(viii).

15 FORFEITURE ALLEGATIONS AS TO COUNTS 4-7

16 1. Upon conviction of the offenses alleged in Counts 4 through
17 7 and Count 10 of this Indictment, defendant RANDY ALTON GRAVES (1),
18 aka "Sweets," shall forfeit to the United States, pursuant to
19 Title 18, United States Code, Section 924(d)(1), and Title 28,
20 United States Code, Section 2461(c), all firearms and ammunition
21 involved in the commission of the offenses, including, but not
22 limited to: one .357 Smith & Wesson revolver, serial number 32868;
23 one Bersa model 383DA, .380 caliber semi-automatic handgun, serial
24 number 130158; a Smith & Wesson, model 66, .357 Magnum caliber
25 revolver, serial number ACC5304; and all ammunition.

26 2. As a result of the commission of the felony offenses
27 alleged in Counts 4 through 7 and Count 10 of this Indictment, said
28 violations being punishable by imprisonment for more than one year

1 and pursuant to Title 21, United States Code, Sections 853(a)(1) and
2 853(a)(2), defendant RANDY ALTON GRAVES (1), aka "Sweets," shall,
3 upon conviction, forfeit to the United States any and all property
4 constituting, or derived from, any proceeds he obtained, directly or
5 indirectly, as the result of the offenses alleged in Counts 4-7 and
6 Count 10, and any and all property used or intended to be used in any
7 manner or part to commit and to facilitate the commission of the
8 violations alleged in Counts 4 through 7 and Count 10 of this
9 indictment, including but not limited to:

- 10 a. A 2007 Mercedes Benz sedan, California License Plate
11 No. 20LBU30, VIN: WDDNG76X27A139877;
12 b. A 2005 Chrysler 300 sedan, California License Plate
13 No. 6TZL108, VIN: 2C3JA53G05H653961

14 3. If any of the above-described forfeitable property, as a
15 result of any act or omission of the defendant:

- 16 a. cannot be located upon the exercise of due diligence;
17 b. has been transferred or sold to, or deposited with, a
18 third party;
19 c. has been placed beyond the jurisdiction of the Court;
20 d. has been substantially diminished in value; or
21 e. has been commingled with other property which cannot
22 be subdivided without difficulty;

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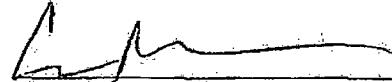
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1 it is the intent of the United States, pursuant to Title 21,
2 United States Code, Section 853(p), to seek forfeiture of any other
3 property of the defendant up to the value of the said property listed
4 above as being subject to forfeiture.

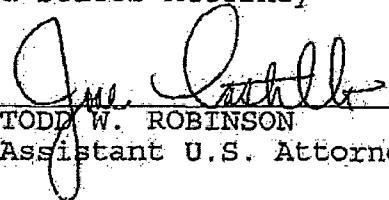
5 All in violation of Title 18, United States Code, Section 1963,
6 Title 18, United States Code, Section 924(d), Title 21, United States
7 Code, Section 853, and Title 28, United States Code, Section 2461(c).

8 DATED: December 18, 2015.

9 A TRUE BILL:

10 
11 Foreperson

12
13 LAURA E. DUFFY
United States Attorney

14 By: 
15 TODD W. ROBINSON
16 Assistant U.S. Attorney

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HONORABLE DANA M. SABRAW)

THE UNITED STATES OF AMERICA,
Plaintiff,
vs.
TERRY CARRY HOLLINS (9),
Defendant.

) Criminal No. 14-CR-01288-DMS-9
)
) **NOTICE OF MOTION AND MOTION TO**
) **SUPPRESS EVIDENCE**
)
) Date: December 17, 2014
) Time: 9:30 a.m.
)

TO: **LAURA E. DUFFY, UNITED STATES ATTORNEY
STEPHEN WONG AND JOSE CASTILLO, ASSISTANT UNITED STATES
ATTORNEYS**

PLEASE TAKE NOTICE on December 17, 2014, at 9:30 a.m., defendant Terry Carry Hollins (9), will ask this Court to enter an order suppressing the jail cell audio recording taken on March 18, 2014 through March 21, 2014.

I.

MOTION

Defendant Terry Carry Hollins (9), by and through his attorneys, pursuant to the United States Constitution, the Federal Rules of Criminal Procedure, and all other applicable statutes, case law and local rules, hereby moves this Court for an order suppressing the jail cell audio recording taken on March 18, 2014 through March 21, 2014.

This motion is based upon the instant motion and notice of motion, the attached statement of facts and memorandum of points and authorities, and any and all other materials that may come to this Court's attention at the time of the hearing on this motion.

DATED: November 19, 2014

LAW OFFICE OF LUPE RODRIGUEZ, Jr. APC

By: s/ Lupe Rodríguez, Jr.
LUPE C. RODRIGUEZ, JR.
Attorneys for Defendant,
TERRY CARRY HOLLINS (9)

DATED: November 19, 2014

H. DEAN STEWARD ATTORNEY AT LAW

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HONORABLE DANA M. SABRAW)

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

TERRY CARRY HOLLINS (9).

Defendant.

Case No.: 14-CR-01288-DMS-9

POINTS AND AUTHORITIES IN SUPPORT OF THE MOTION TO SUPPRESS EVIDENCE

Date: December 17, 2014

Time: 9:30 a.m.

I.

PRELIMINARY STATEMENT

The defendant, Terry Carry Hollins (9) (hereinafter referred to as "Mr. Hollins"), respectfully submits the following memorandum of law in support of his motion to suppress the jail cell audio recording taken on March 18, 2014 through March 21, 2014. Mr. Hollins contends (1) the audio recording was obtained in violation of his Fourth Amendment rights and should be suppressed and (2)

1 the audio recording was intercepted in violation of Title III of the Omnibus Crime Control and Safe
2 Streets Act of 1968 (Title III) and should be suppressed.

3 **II.**

4 **STATEMENT OF FACTS**

5 The following facts have been derived from the San Diego Police Department Investigator's
6 Report dated March 1, 2014:

7 In March 2014, Mr. Hollins was detained in the George Bailey Detention Facility awaiting trial
8 in a state criminal case. Mr. Hollins was occupying his jail cell with two co-defendants awaiting the
9 same state criminal trial. On March 11, 2014, a third party contacted Detective Maggi and informed him
10 that Mr. Hollins was currently sharing his jail cell with two individuals from the West Coast Crips (both
11 men are currently co-defendant's in this case). Detective Maggi was investigating the Paris Hill murder
12 and other alleged crimes outlined in this case. Detective Maggi confirmed the men were sharing the jail
13 cell and contacted Deputy District Attorney Frank Jackson (DDA Jackson) about placing an electronic
14 recording device in the jail cell. DDA Jackson said no search warrant would be required. Detective
15 Maggi contacted the Detentions Investigation Unit (DIU) about implanting the recording device. DIU
16 told Detective Maggi he would have to obtain a device but DIU would install the device in Mr. Hollins'
17 cell.

18 On March 18, 2014, at the direction of Detective Maggi, DIU Detective Victor David installed
19 the recording device in Mr. Hollins' jail cell without a warrant, without his knowledge and without his
20 consent. The device was recovered from the cell on March 21, 2014. The information contained on the
21 recording device was downloaded and provided to Detective Maggi. The jail cell audio recording is the
22 subject of this motion to suppress.

23 **III.**

24 **THE RECORDING SHOULD BE SUPPRESSED**
25 **BECAUSE IT WAS OBTAINED WITHOUT A WARRANT IN VIOLATION**
26 **OF MR. HOLLINS FOURTH AMENDMENT RIGHTS**

27 The Fourth Amendment to the United States Constitution states "the right of the people to be
28 secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not

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13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

15 UNITED STATES OF AMERICA,

16 Case No.: 14-CR-1288-DMS

17 Plaintiff,

18 v.
19 RANDY ALTON GRAVES et. al.,
20 Defendants.
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**DECLARATION OF SPECIAL AGENT
KATIE HARDING IN SUPPORT OF
THE UNITED STATES' SECOND
CONSOLIDATED RESPONSE AND
OPPOSITION TO DEFENDANTS'
MOTIONS**

I, Katie Harding, declare as follows:

1. I am a Special Agent with the Federal Bureau of Investigation and have been so employed for approximately 10 years.

2. I am the case agent in Case No. 14-cr-1288-DMS, United States v. Randy Alton Graves et. al., and I am therefore familiar with the facts of this case.

3. I am currently assigned to the San Diego Field Division working as a member of the San Diego East County Regional Gang Task Force in El Cajon, California. My duties include the investigation and apprehension of individuals involved

1 in violent gang-related activities as well as drug trafficking and distribution. Prior to
2 joining the FBI, I was employed as a Forensic Scientist with the Oregon State Police. In
3 that position, I processed crime scenes and examined evidence.

4 4. As a FBI Special Agent, I have participated in over 100 arrests for narcotics-
5 related and gang-related offenses. I have participated in over 20 investigations that
6 involved various investigative techniques, such as undercover operations, the use of
7 confidential informants, the purchase of controlled substances, the execution of search
8 warrants, surveillance in connection with narcotic investigations, and the interview of
9 confidential sources. Through training and participation in these investigations, I have
10 gained insight into the typical makeup and operation of gangs and drug trafficking
11 organizations and the various methods these organizations use to carry out their violent
12 crime and drug trafficking activities.

13 5. As a FBI Special Agent, I have participated in several investigations into
14 San Diego-area street gangs. I was the co-case agent on two investigations that led to the
15 arrest and prosecution of nearly 100 Mexican Mafia members, associates, and soldiers.
16 These investigations led to numerous charges being filed, including racketeering (with
17 predicate acts of murder, attempted murder, and robbery), extortion, drug trafficking, and
18 various firearms offenses. We employed a variety of investigative techniques in these
19 investigations, including Title-III interceptions of wire communications, consensual
20 monitoring of communications, undercover operations, and confidential informants. I
21 have interviewed dozens of gang members, including members of Hispanic gangs such as
22 Mexican Mafia members, associates and soldiers as well as African American gangs such
23 as the West Coast Crips. Through the course of these investigations, I have gained
24 substantial knowledge of the internal rules and operating codes that govern San Diego
25 gangs as well as the investigative techniques necessary to investigate them successfully.

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1 26. The threat to DF, introduced in the March 5, 2014, call, was further
2 explained in a March 13, 2014, intercepted call between Graves and co-defendant Brenda
3 Rodriguez. Graves said:

4 I swear to God, you can ask that [person] Trey-O [Cook] what I told em, I
5 said [person] we'll have to do [kill] the bitch [DF] . . . the bitch [DF]
6 probably told them [law enforcement authorities] the whole plot [what
7 happened the night of Hill's murder] . . . if it was my call to make, I'd snatch
8 that bitch [DF] and have that bitch [DF] tied up some mother fucking where
. . . next time you all see this bitch [DF], it'll be in a body bag.

9 27. Graves provided specific details that identified DF as the target, and
10 concluded that because DF was probably in protective custody and out of reach, they
11 needed to go after DF's family. In particular, Graves stated:

12 (U/I) fuck how big the family is and what they going to do, . . . we gonna
13 knock [kill] as many of you mother fuckers off until that time comes . . . we
14 lose 2-3 homies, 2-3 mother fuckers in your family got to go . . . you run
your mouth, you die, period . . .

15 28. Upon hearing this call, myself and other investigators believed that the WCC
16 was planning the murder of DF and her family. Further, because Hollins was then
17 detained in the George Bailey Detention Center (GBDF), I believed that the topic of DF
18 and her family was likely the subject of discussion by Hollins and other WCC members
19 detained in that jail. I know that DF was close to Hollins and it would be unlikely for the
20 WCC to act on DF without some input from Hollins.

21 29. Thus, by mid-March 2014, I was aware that the WCC had killed Paris Hill
22 because of his cooperation with law enforcement and was actively planning the murder of
23 DF. Moreover, I and the other investigators involved in the case had reason to believe
24 that the plot to murder Paris Hill and, to a certain extent, the conspiracy to murder DF
25 had originated through discussions by WCC members who were then detained within the

1 GBDF. Throughout this time, I had regular discussions with local law enforcement
2 officers who were conducting a parallel investigation.

3 30. On March 18, 2014, at the request of detectives with the San Diego Police
4 Department, San Diego Sheriff's Deputies installed a recording device in a jail cell
5 occupied by WCC members Hollins, Marcus Foreman, and Darnell Butler.

6 31. At that time, Hollins, Foreman, and Butler were housed in House 6, Module
7 B, Cell 128 of the GBDF. Attached hereto as Exhibits 1-6 are true and correct copies of
8 photographs depicting Module B and Cell 128. I am informed by GBDF staff that these
9 photos fairly and accurately represent the layout and physical structure of Cell 128 as it
10 existed in March 2014.

11 32. As shown in Exhibits 1, 2 and 3, Cell 128 is on the ground floor,
12 immediately adjacent to a common area where there are several tables. Cell 128 is the
13 third in a row of six cells on that wall. Inside the cell there is a solid metal door on
14 rollers. There are two metal windows in the door. The cell is approximately six feet by
15 twelve feet and contains three bunks, a toilet, a sink, a desk, and a stool. On the walls,
16 there is an air vent, a light fixture, and an intercom box.

17 33. The intercom box, shown in Exhibits 4 and 5, is approximately six inches by
18 six inches square and is flush against the wall, with perforated holes, and a large button.
19 The button is used to contact deputies. Deputies can also listen in on cells by remotely
20 activating the intercom. In an attempt to prevent deputies from monitoring the cells,
21 inmates often wet paper and place the paper in the perforated holes of the intercom box.
22 During bi-weekly cell hygiene inspection, deputies remove the paper from the intercom
23 box. Inmates also stick paper in the air vents of their cells. An example of an air vent
24 covered with paper is pictured in Exhibit 6.

25 34. The GBDF does not post signs regarding inmate privacy, nor are inmates
26 provided with orientation videos that mention privacy within the facility. However, as

1 part of their orientation, inmates are informed of the intercom and are told that they can
2 contact guards by pushing a button next to the intercom.

3 35. The recording device installed in Cell 128 on March 18, 2014, ran for
4 approximately 72 hours. At various times during that period, the recording captures the
5 voices and activity of people outside of the cell. Since the recording device, within the
6 cell, captured voices that appear to come from outside of the cell, I believe that those
7 inside of the cell would have been aware that persons outside of the cell could hear their
8 conversations. I also believe that Hollins, Foreman, and Butler seem to be aware that
9 their jail-cell conversations were within earshot of outsiders because, among other things,
10 they use gang jargon and hushed voices at various times during the recording.

11 36. Over the course of the recording, Hollins made several statements.⁴ These
12 statements include:

13 i. **Excerpt No. 1**

14 Foreman: So where was he [Paris Hill]⁵ laying anyway?
15 Hollins: You know, where you come out the gate?
16 Foreman: The front gate or the back gate?
17 Hollins: The back gate, probably about ten or fifteen feet.
18 Foreman: To the left or right?
19 Hollins: To the right.
20 Foreman: Oh, so the way to the street?
21 Hollins: Nah man, going down towards the mother fucking police
22 station.
23 Foreman: Oh out front gate? Oh, I thought the front gate was the one on
24 the sidewalk.
25 Hollins: Yeah.

⁴ The quoted excerpts are based on my best effort to describe what I heard on the recording, which is at times difficult to decipher due to background noise.

⁵ Given the context of the conversations, I believe that Hollins, Butler, and Foreman discussed the events surrounding the murder of Paris Hill.

1 Foreman: The back gate (U/I) the trail.
2 Hollins: Ok well yeah . . . like ten feet.
3 Foreman: Oh so whoever was parked down that way couldn't see
4 regardless . . . so whoever was parked up to (U/I).
5 Hollins: . . .
6 Hollins: Not when you walk down. . . . We were on the sidewalk
7 walking down. . . .
8 Foreman: Did anybody make a scene? Like, nobody? No bitches? No
9 nothing?
10 Hollins: It's West Coast . . . it's political. . . .
11 Butler: On the set . . .
12 Foreman: It's Southeast!
13 Hollins: That shit showed me homie.
14 Foreman: If a [person] go through channels, you get your ass knocked
15 down (laughing loudly) . . .
16 Hollins: If you go through the proper steps . . .
17 Foreman: You get your ass knocked down.
18 Unknown: It's vicious . . .
19 Hollins: (U/I) 911 . . . no running . . . we came back . . . dancing.

ii. Excerpt No. 2

16 Hollins: You know me, I know the political stand point: I went back to
17 Sweets [Graves], let me holla at you . . . Sweets [Graves] is
18 looking at me like this, you know what I mean.
19 Foreman: You already talked about it. Stop talking. Get to it.
20 Hollins: Nah, not stop talking but he was just like . . .
21 Foreman: It's blue [referring to Crip authorization to kill a person] it's
22 blue little homie.
23 Hollins: It's (U/I) possible to hit him right now. You know what I mean.
24 And like Sweets [Graves] and Crazy Mike [not yet identified]
25 was standing right here, right. And we walked in, Crazy Mike
26 just looked at me and looking at me like . . .
Foreman: With that grin?
Hollins: Crip cuz. Look, I felt good, I was like, you know what I mean
[person]. Because I've been getting a different response from
Mike and them, Kee, like, ever since that like G-homies [senior
gang members] that been knowing are always be cracking (U/I)

1 but when that happened I've been getting nods, like, from the
2 [persons] that I want to get the nods from.

3 **iii. Excerpt No. 3**

4 Hollins: (U/I) cooperation, homie . . . this ain't that heartless.

5 Butler: He's a homie, [person]. He just didn't know what you was
6 doing and he fucks it up. Point blank period. He fucked up.

7 Foreman: He knew what he was doing . . .

8 Hollins: When it was time it's still being like, I seen it all in his face . . .
9 That little [person] is gangsta though. He knew that . . . it was
10 his doing to do that to him. The whole time, you could just see
11 it looked like he was (U/I) crying.

12 Butler: Like (U/I).

13 Hollins: On Crip [person].

14 Butler: I am my brother's keeper. You think you can run, G.

15 Hollins: I didn't want to look at him. You know what I mean. (U/I) I did
16 it though. Cuz was looking at me like . . . when we left that
17 gate, and went down that hill a little bit and we got to talking a
18 little bit, he was standing there just looking at me. . . . Love him
19 you know, still love him till today. Still love him. Still my
20 [person]. Still gonna look out for your kids^[6] . . . all that. On
21 Threes [the 3-Babiez clique], I got him. Still . . . like come on
22 Kee, but you fucked up homie. You fucked up . . . like you was
23 wrong!

24 37. In June and July 2013, the United States produced several thousand pages of
25 discovery in this case. I participate in the discovery process. In producing discovery, the
26 United States was aware of the special dangers that this case presented to government
27 witnesses and it attempted to either withhold statements of witnesses who were most
28 likely to face reprisal from the WCC or produce their statements in redacted form.
Notwithstanding those attempts to control discovery, certain documents in the production
inadvertently disclosed the names of witnesses who I believed were still at risk. Some of

26⁶ In March 2014, Hill was a father.

1 those documents were also included in the July 2013 production of discovery to various
2 detention centers, including a document that named a witness who came to my attention
3 on September 15, 2014 (hereinafter referred to as "Witness 15").

4 38. As way of background, the FBI maintains a phone line which members of
5 the general public may call to provide information or seek assistance. On September 15,
6 2014, the FBI received a call from Witness 15. During the call, Witness 15 stated that
7 Hollins had put a "green light" [authorization to kill] on Witness 15, because of a
8 statement Witness 15 provided to law enforcement which was contained in discovery.

9 39. Shortly after the above-noted call, agents handling this investigation met
10 with Witness 15, who repeated the statements Witness 15 made in the prior call. In
11 making that statement, Witness 15 admitted that Witness 15 had learned that information
12 while trying to purchase narcotics from another WCC gang member. Witness 15 further
13 stated that the order had been given by Hollins, after Hollins reviewed "paperwork"
14 documenting that Witness 15 had spoken with law enforcement officers about Hollins.

15 40. I have reviewed Facebook postings made by the mother of at least one of
16 Hollins' children. On September 15, 2015, she posted the following message on
17 Facebook: "[Hollins] HAS IS [sic.] DISCOVERY AND YOUR [Witness 15] ALL
18 OVER IT. . . WHILE U [Witness 15] THOUGHT YOU WAS HELPING. . . U WAS
19 HELPING NOBODY BUT THE POLICE. . ."

20 41. Given the timing and nature of the threat communicated by Witness 15, I
21 believed that Witness 15's concerns were credible. My agency took steps to relocate
22 Witness 15 and to further investigate the threat against Witness 15. In reviewing Hollins'
23 recorded jail calls, I heard additional references to Witness 15, including references to the
24 specific pages of discovery in which Witness 15 makes reference to Hollins. I have also
25 reviewed correspondence that Hollins sent in September 2014, in which he asks a female
26 to "call that dude and tell him to leave that dude from East Coast alone cause they on my

1 THAT SHE HAD ONGOING CONVERSATIONS WITH LOCAL LAW ENFORCEMENT.
2 WE DON'T KNOW THE CONTEXT OF THOSE CONVERSATIONS, AND WHETHER
3 DETECTIVE MAGGI WAS PRIVY TO ANY OF THIS INFORMATION THAT SHE
4 WAS REVIEWING ON A DAILY BASIS FROM THESE RECORDINGS THAT SHE
5 WAS GETTING ON A WIRETAP.

6 **THE COURT:** I APPRECIATE THE DISCUSSION. I AM GOING
7 TO STAND ON THE TENTATIVE, AND I WOULD REITERATE WHY.

8 I WOULD START AGAIN WITH THE PROPOSITION WITHIN THE
9 NINTH CIRCUIT, UNDER THE DUPNIK CASE, THAT A PRETRIAL DETAINEE
10 HAS NO REASONABLE EXPECTATION OF PRIVACY IN A JAIL CELL. THAT
11 TAKES US A LONG WAY DOWN THE ROAD TO ANSWERING THE QUESTION
12 BEFORE THE COURT TODAY. IT IS ESSENTIALLY WHERE PEOPLE VERSUS
13 DAVIS STARTED, BY THE CALIFORNIA SUPREME COURT. THE U.S.
14 SUPREME COURT, IN LANZA, HOLDS THAT THE FOURTH AMENDMENT
15 PROTECTIONS DO NOT APPLY INSIDE A JAIL BECAUSE A JAIL SHARES
16 NONE OF THE ATTRIBUTES OF PRIVACY OF THE HOME, AN AUTOMOBILE,
17 AN OFFICE OR A HOTEL ROOM. AND IN PRISON OFFICIAL
18 SURVEILLANCE HAS TRADITIONALLY BEEN THE ORDER OF THE DAY.

19 HUDSON THEN TAKES THAT LOGIC AND FINDS THAT A
20 CONVICTED INDIVIDUAL HAS NO REASONABLE EXPECTATION OF
21 PRIVACY IN A JAIL OR PRISON CELL BECAUSE IT IS SUBJECT TO
22 SEARCH ANY TIME, DAY OR NIGHT, FOR ANY LEGITIMATE SECURITY
23 REASON.

24 THAT BEING THE CASE, ANY INDIVIDUAL WHO OCCUPIES A
25 CELL DOES NOT ENJOY A REASONABLE EXPECTATION OF PRIVACY

DECEMBER 17, 2014

1 BECAUSE THAT PARTICULAR AREA IS SUBJECT TO SEARCH ANY TIME,
2 AND IS SUBJECT TO MONITORING AT ANY TIME FOR SECURITY
3 PURPOSES.

4 SO LONG AS THAT PARTICULAR AREA -- IN THIS CASE THE
5 AREA OCCUPIED BY MR. HOLLINS -- IS SUBJECT TO MONITORING AND
6 SEARCH AT ANY TIME THERE CAN'T BE A REASONABLE EXPECTATION OF
7 PRIVACY.

8 SO THE RECORD IS CLEAR, I WOULD ADOPT THE RATIONALE
9 OF PEOPLE VERSUS DAVIS. IT MAKES PERFECT SENSE TO ME. THE
10 LOGIC APPEARS IMPENETRABLE. AND WHEN ONE READS DUPNIK AND
11 DAVIS TOGETHER, I THINK THE LAW IS CERTAINLY DIFFERENT HERE IN
12 CALIFORNIA AND WITHIN THE NINTH CIRCUIT THAN IT IS IN THE
13 SECOND CIRCUIT UNDER THE COHEN DECISION.

14 SECONDARILY, I THINK IT IS FAIR, SINCE THE FOURTH
15 AMENDMENT IS BASED UPON AN OBJECTIVE ANALYSIS, IT IS FAIR TO
16 TAKE THE COLLECTIVE KNOWLEDGE OF LAW ENFORCEMENT AND TO FIND,
17 UNDER THESE FACTS, THERE IS ABUNDANT EVIDENCE IN THE RECORD
18 THAT LAW ENFORCEMENT HAD REAL CONCERNS ABOUT WITNESS SAFETY
19 AND THE EAVESDROPPING HERE WAS IN FURTHERANCE OF THOSE GOALS.

20 FOR THOSE REASONS I WOULD STAND ON THE TENTATIVE. I
21 WOULD RESPECTFULLY DENY THE MOTION TO SUPPRESS.

22 THERE ARE A NUMBER OF OTHER MOTIONS. LET'S MOVE TO
23 THOSE.

24 MR. HOLLINS HAS FILED A MOTION FOR BILL OF
25 PARTICULARS. MR. FOREMAN, MR. COOK AND MR. BANDY JOIN IN THAT

DECEMBER 17, 2014

1 **SAN DIEGO, CALIFORNIA - THURSDAY, JANUARY 14, 2016 - 2:30 P.M.**

2 * * *

3 **THE CLERK:** RECALLING NO. 2 ON CALENDAR, CASE NO.
4 14CR1288, AS TO DEFENDANT NO. 9, HOLLINS AND NO. 12, FOREMAN,
5 ONLY.

6 **MR. RODRIGUEZ:** GOOD AFTERNOON, YOUR HONOR. LUPE
7 RODRIGUEZ ON BEHALF OF MR. HOLLINS, WHO IS PRESENT IN CUSTODY.

8 **THE COURT:** GOOD AFTERNOON.

9 **MS. DOBRO:** GOOD AFTERNOON. MAXINE DOBRO ON BEHALF
10 OF MARCUS FOREMAN, WHO IS PRESENT IN CUSTODY.

11 **MR. ROBINSON:** GOOD AFTERNOON, YOUR HONOR. TODD
12 ROBINSON FOR THE UNITED STATES.

13 **THE COURT:** GOOD AFTERNOON.

14 THIS WAS SET AT THE REQUEST OF MR. HOLLINS AND MR.
15 FOREMAN. THE INFORMATION I HAVE IS THAT THEY HAVE EXPRESSED A
16 DESIRE TO REPRESENT THEMSELVES. THAT WAS AT THE MORNING
17 SESSION, AND IT IS NOW 2:30. WE RECESSED, I THINK, AT 12:30,
18 12:45, SO COUNSEL HAVE HAD AN OPPORTUNITY TO DISCUSS THAT
19 ISSUE WITH THEIR CLIENTS.

20 MR. RODRIGUEZ, AFTER MEETING WITH MR. HOLLINS,
21 WHAT'S OUR STATUS?

22 **MR. RODRIGUEZ:** WELL, YOUR HONOR, I WAS INFORMED
23 THIS MORNING, AFTER WE CONCLUDED OUR MOTION IN LIMINE HEARING,
24 THAT MR. HOLLINS WANTED TO REPRESENT HIMSELF. HE IS STILL OF
25 THAT POSITION AFTER I HAVE EXPLAINED TO HIM THE NORMAL FARETTA

JANUARY 14, 2016

1 WAIVER, THEN YOU WOULD BE PERMITTED TO DO THAT. BUT WE WILL
2 SPEND SOME TIME GOING OVER WHAT THOSE RISKS ARE.

3 MS. DOBRO.

4 MS. DOBRO: YOUR HONOR, I AM SORRY THAT WE OMITTED
5 TO STATE THAT BOTH INDIVIDUALS -- I THINK I CAN SAY THIS ON
6 BEHALF OF MR. HOLLINS AND MR. FOREMAN -- WOULD REQUEST, IF THE
7 COURT GRANTS THEIR REQUEST, THAT MR. RODRIGUEZ AND I BE
8 ALLOWED TO REMAIN AS STANDBY COUNSEL.

9 THE COURT: WELL, I WOULD RESERVE ON THAT.

10 MS. DOBRO: YES.

11 THE COURT: THAT MAY OR MAY NOT HAPPEN, AND THE
12 REALITY IS YOU MAY WELL BE ON YOUR OWN IF YOU ELECT TO MAKE
13 THIS DECISION.

14 MR. ROBINSON: YOUR HONOR, IN ADDITION TO THE
15 ORDINARY FARETTA COLLOQUY IN WHICH I ASSUME THE COURT IS GOING
16 TO ENGAGE, THERE IS ADDITIONAL INFORMATION WITH RESPECT TO
17 DEFENDANT HOLLINS THAT THE GOVERNMENT IS IN POSSESSION OF
18 BECAUSE OF THE MITIGATION PACKAGE THAT WAS SUBMITTED RELATIVE
19 TO THE DEATH PENALTY PROCEEDINGS.

20 THE COURT: YES.

21 MR. ROBINSON: THAT PACKAGE INCLUDES AN ANALYSIS OF
22 THE I.Q. OF DEFENDANT HOLLINS. AND THERE IS AN EXPERT WHO
23 WILL OPINE THAT HIS I.Q. IS WITHIN THE RANGE OF AN INDIVIDUAL
24 WHO WOULD BE MENTALLY RETARDED.

25 THE COURT: YES, I SAW THAT. I REMEMBER THAT.

JANUARY 14, 2016

1 **MR. ROBINSON:** YES, YOUR HONOR. SO I WOULD JUST ADD
2 THAT ADDITIONAL FACT TO THE COURT'S INQUIRY.

3 **THE COURT:** YES. THOUGH I BELIEVE THIS INQUIRY
4 FOCUSES ON COMPETENCY, NOT HOW ADEPT ONE IS INTELLECTUALLY.

5 **MR. ROBINSON:** YES, YOUR HONOR. BUT I THINK IN
6 TERMS OF HIS KNOWING AND INTELLIGENT WAIVER OF HIS RIGHT TO
7 COUNSEL THAT PERHAPS IS AN AREA.

8 **THE COURT:** OKAY.

9 I WOULD LIKE TO START WITH SOME OF THE BASIC
10 OBSERVATIONS HERE, AND THAT IS THAT IF YOU REPRESENT YOURSELF
11 YOU WILL BE TREATED NO DIFFERENTLY FROM THE ATTORNEYS. I
12 WOULD TREAT YOU EXACTLY THE SAME, HOLD YOU TO ALL OF THE SAME
13 STANDARDS.

14 AND THERE WILL BE ADDITIONAL PROVISIONS BECAUSE IT
15 IS MY INTENTION, FOR REASONS THAT I AM GOING TO STATE IN THE
16 SUBSEQUENT ORDER, TO SHACKLE ALL DEFENDANTS. AND I WOULD NOT
17 RETREAT FROM THAT ORDER SIMPLY BECAUSE YOU ARE REPRESENTING
18 YOURSELF. SO IF YOU ELECT TO REPRESENT YOURSELF YOU WILL NOT
19 BE FREE TO ROAM THE COURTROOM. YOU WILL BE SHACKLED, JUST AS
20 EVERYONE ELSE WILL BE, FROM THE WAIST DOWN. THE JURORS WILL
21 BE UNAWARE THAT YOU ARE SHACKLED, BUT YOU WILL BE CONDUCTING
22 ANY OPENING AND CLOSING ARGUMENT AND ANY EXAMINATION OF
23 WITNESSES WHILE YOU ARE SEATED, AND YOU WOULD BE SEATED FOR
24 THE ENTIRETY OF THE TRIAL.

25 I WILL ALSO CONSIDER CAREFULLY WHETHER OR NOT YOU

JANUARY 14, 2016

1 **DEFENDANT FOREMAN:** YES, YOUR HONOR. WITH RESPECT
2 TO THE DISCOVERY, YOU FEEL THAT IT IS FAIR THAT BEING HOW WE
3 HAVEN'T SEEN IT, THAT THREE WEEKS IS A SIGNIFICANT TIME TO
4 PREPARE FOR THIS COMPLEX CASE? YOU ARE SURE THAT THAT IS
5 FAIR?

6 **THE COURT:** YOU WILL BE GIVEN THE DISCOVERY IN THE
7 CONDENSED FORM THAT THE GOVERNMENT HAS PREPARED, SO THEY HAVE
8 STREAMLINED THE CASE. AND THEY HAVE IDENTIFIED, AS YOU HEARD
9 THIS MORNING, WITNESSES, EXHIBITS, TRANSCRIPTS. THEY HAVE
10 OUTLINED THE CASE. AND YOU WILL BE GETTING THAT, WITH THE
11 EXCEPTION OF CERTAIN COOPERATING WITNESSES. AND I WILL MAKE A
12 DETERMINATION AS TO WHEN YOU WOULD GET THAT INFORMATION.

13 **DEFENDANT FOREMAN:** I WOULD ASK, WHEN WILL WE GET
14 IT? HOW WILL WE -- WE NEED TIME TO GO OVER IT WHEN WE GET IT.

15 **THE COURT:** YOU, IF YOU REPRESENT YOURSELF, YOU WILL
16 BE GETTING THAT INFORMATION, I SUSPECT LATER THIS AFTERNOON.
17 BUT BY REPRESENTING YOURSELF YOU DON'T BUILD IN THE
18 OPPORTUNITY TO CONTINUE YOUR TRIAL DATE.

19 **DEFENDANT FOREMAN:** NO, I MEAN, I'M NOT DOING THAT
20 TO -- FOR A CONTINUANCE. I AM SAYING BY MY TAKING OVER, BY ME
21 REPRESENTING MYSELF, I FEEL THAT I AM ENTITLED FOR TIME TO GO
22 OVER IT, AS MUCH TIME AS THEY HAD TO GO OVER IT AND GET READY.
23 IT IS THINGS I HAVEN'T SEEN AT ALL, YOUR HONOR, THAT THEY HAVE
24 SEEN AND HAD TIME TO WORK ON.

25 **THE COURT:** I UNDERSTAND THAT. THAT MAY BE A FACTOR

JANUARY 14, 2016

1 WOULDN'T HAVE COME UP IN THE DISCOVERY MATERIAL. SO THAT MAY
2 BE THE EXPLANATION AS TO WHY THERE ARE NAMES THAT DEFENSE
3 COUNSEL PROFESSES THAT THEY HAVE NEVER SEEN BEFORE.

4 **THE COURT:** ALL RIGHT.

5 **MS. DOBRO:** THAT CLARIFIED SOMETHING. THANK YOU.

6 **THE COURT:** WHERE WE ARE WITH RESPECT TO THE
7 ADMONITIONS I WOULD GIVE IS THAT YOU WILL BE GETTING THE
8 DISCOVERY. AS I UNDERSTAND IT YOU ALREADY HAVE ALL OF THE
9 DISCOVERY THAT'S NOT SUBJECT TO THE ATTORNEY'S EYES ONLY
10 PROTECTIVE ORDER. IN ADDITION, YOU WOULD BE GETTING THE
11 OUTLINE OF THE GOVERNMENT'S CASE THAT WE HAVE DISCUSSED HERE
12 TODAY. YOU WILL NOT BE GETTING THE COOPERATING WITNESSES'
13 REPORTS AND IDENTIFICATION AT THIS TIME, AND I WILL DETERMINE
14 WHEN THAT WOULD BE MADE AVAILABLE TO YOU.

15 AND I WOULD REITERATE THAT THE TRIAL ITSELF WILL
16 PROCEED AS I HAVE OUTLINED, WHERE YOU WOULD BE TREATED NO
17 DIFFERENTLY FROM COUNSEL, HELD TO THE SAME STANDARDS, THE
18 EXCEPTION BEING SHACKLING AND THE TIMING OF WHEN COOPERATING
19 WITNESSES ARE DISCLOSED.

20 THOSE ARE CONCERNS, THOSE TWO ITEMS COMPETE WITH A
21 DEFENDANT'S RIGHT TO REPRESENT HIMSELF, AND I AM GOING TO HAVE
22 TO CONSIDER BOTH OF THOSE. AS TO SHACKLING, THAT IS A
23 CERTAINTY THAT THAT WILL OCCUR. THE ISSUE THAT I AM GOING TO
24 BE CONTEMPLATING IS THE TIMING OF THE RELEASE OF COOPERATING
25 WITNESSES. THE TRIAL DATE WILL REMAIN, FEBRUARY 8.

JANUARY 14, 2016

1 WITH THESE ADVISALS, AND AGAIN RETURNING TO THE
2 CHARGE, THE EVIDENCE THAT IS GOING TO BE PRESENTED, THE
3 POTENTIAL PUNISHMENT, WHICH IS LIFE, AND THERE IS NO PAROLE IN
4 THE FEDERAL SYSTEM, THE DECISION TO REPRESENT YOURSELF IS MOST
5 WELL ADVISED.

6 GIVEN THE PARAMETERS THAT I HAVE OUTLINED AND THE
7 REALITY OF HOW THIS CASE WILL BE TRIED, EVEN IF YOU REPRESENT
8 YOURSELF, IS IT YOUR DETERMINATION AT THIS TIME TO REPRESENT
9 YOURSELF, OR DO YOU WANT TO TALK TO YOUR ATTORNEYS ABOUT IT
10 MORE IN ORDER TO MAKE THAT DETERMINATION?

11 DEFENDANT HOLLINS: I WOULD LIKE TO SPEAK TO MY
12 COUNSEL.

13 THE COURT: MR. FOREMAN?

14 DEFENDANT FOREMAN: I WOULD LIKE TO SPEAK TO MINE,
15 TOO.

16 **THE COURT:** WHAT I WOULD LIKE TO DO IS RECESS AT
17 THIS TIME, KEEP BOTH OF YOU HERE WITH YOUR ATTORNEYS.

18 I WILL ASK THAT GOVERNMENT COUNSEL EXIT AND ALLOW
19 THE ATTORNEYS AND THEIR CLIENTS TO MEET PRIVATELY, WITH THE
20 EXCEPTION, OF COURSE, OF THE DEPUTY MARSHALS WHO WILL BE OUT
21 OF EARSHOT FOR THE CONVERSATION THAT OCCURS.

22 AND WHEN COUNSEL ARE READY TO PROCEED, LET ME KNOW.

23 MS. DOBRO: THANK YOU, YOUR HONOR.

24 MR. RODRIGUEZ: THANK YOU, YOUR HONOR.

25 || * * *

JANUARY 14, 2016

SAN DIEGO, CALIFORNIA - THURSDAY, JANUARY 14, 2016 - 3:55 P.M.

* * *

3 THE COURT: WE BACK ON THE RECORD WITH ALL PRESENT.

4 MR. RODRIGUEZ, WHAT IS OUR STATUS?

5 **MR. RODRIGUEZ:** YOUR HONOR, AFTER A VERY LENGTHY
6 DISCUSSION WITH MR. HOLLINS AND MR. FOREMAN, THEY DECIDED TO
7 WITHDRAW THEIR REQUEST TO REPRESENT THEMSELVES.

8 THE COURT: ALL RIGHT. THEN I WOULD SIMPLY CONCLUDE
9 THIS HEARING, AND ADDRESS ANY REMAINING MATTERS WHEN WE NEXT
10 VISIT IN A COUPLE OF WEEKS.

11 THE REPORTER: ARE THESE PROCEEDINGS SEALED?

12 THE COURT: NO.

* * *

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

S/LEEANN PENCE 9/20/2016
LEEANN PENCE, OFFICIAL COURT REPORTER DATE

JANUARY 14, 2016

1 ALL OF THAT WOULD BE COMPLETELY DISRUPTED BY THIS
2 REQUEST IF A CONTINUANCE WERE TO BE GRANTED.

3 ALSO, AN EXTREMELY IMPORTANT FACT AS IT RELATES TO
4 THE TIMING OF THE REQUEST. ON DECEMBER 22 THE COURT DECLINED
5 TO LIFT THE A.E.O. PROTECTIVE ORDER, AND WHAT THAT DID IS IT
6 PRECLUDED YOU AND OTHER DEFENDANTS FROM RECEIVING INFORMATION
7 ABOUT THE GOVERNMENT'S CORE WITNESSES, CONFIDENTIAL WITNESSES,
8 UNTIL TWO DAYS PRIOR TO THE TIME THEY TESTIFIED.

9 THE COURT STRUCK A BALANCE BETWEEN ALLOWING YOUR
10 ATTORNEYS TO HAVE ACCESS TO ALL OF THAT INFORMATION SO THAT
11 THEY COULD PREPARE YOUR DEFENSE, AND PROVIDING ENOUGH TIME, IN
12 MY VIEW, TWO DAYS, FOR EACH DEFENDANT TO MEET WITH HIS OR HER
13 ATTORNEY TO GO OVER AND DISCUSS THE SPECIFIC WITNESSES WHO
14 WOULD BE TESTIFYING.

15 WHEN THE COURT ISSUED THAT ORDER ON DECEMBER 22ND
16 THAT, FROM A DEFENDANT'S STANDPOINT, DRAMATICALLY CHANGED THE
17 LANDSCAPE IN THAT IT ALLOWED YOU TO HAVE ACCESS TO
18 CONFIDENTIAL WITNESSES TWO DAYS BEFORE THEY TESTIFIED, NOT SIX
19 WEEKS BEFORE TRIAL.

20 WHAT THEN FOLLOWED WAS THE MOTION FOR SELF
21 REPRESENTATION, BY YOU AND MR. FOREMAN, ON JANUARY 14, 23 DAYS
22 AFTER THE COURT MADE THAT DECISION. THAT IS HIGHLY INDICATIVE
23 OF THE MOTIVE THAT I BELIEVE IS BEHIND THE REQUEST FOR SELF
24 REPRESENTATION.

25 THE REALITY ALSO, IN MY VIEW, IS THAT THIS REQUEST

JANUARY 29, 2016

1 IS MADE TO, IN MANY WAYS, INFECT THE RECORD, CREATE A HOBSON'S
2 CHOICE FOR THE COURT, BECAUSE I HAVE YOU, THROUGH
3 MR. RODRIGUEZ, AS HE VERY ELOQUENTLY PUT IT TODAY, HAVING A
4 RIGHT TO MEANINGFUL REPRESENTATION. AND THAT HAS TO BE
5 CONSIDERED IN LIGHT OF THE FACT THAT THIS CASE PRESENTS
6 UNUSUAL FACTS THAT RELATE TO WITNESS TESTIMONY AND TO WHEN
7 THOSE WITNESSES SHOULD BE DISCLOSED, BY NAME AND
8 IDENTIFICATION, TO THE VARIOUS DEFENDANTS.

9 SO THERE IS A DIRECT TENSION BETWEEN MEANINGFUL
10 REPRESENTATION AND ACCESS TO ALL DISCOVERY SO THAT ONE CAN
11 MEANINGFULLY REPRESENT HIMSELF, AND THIS REQUEST PUTS THE
12 COURT IN THAT SITUATION. AND THAT IS FURTHER EVIDENCE, TO ME,
13 THAT THE REQUEST IS DESIGNED NOT ONLY TO INFECT THE RECORD BUT
14 TO ALLOW -- OR IT IS FURTHER INDICATIVE OF A REQUEST THAT
15 ULTIMATELY IS NOT MADE IN GOOD FAITH BUT DESIGNED TO CAUSE
16 DELAY, AND ULTIMATELY TO DISRUPT THE PROCEEDINGS.

17 IT IS FURTHER TELLING THAT IN MR. FOREMAN'S WRITTEN
18 REQUEST, WHICH THE TWO OF YOU PRESENTED ON JANUARY 14, THE
19 FIRST REQUEST IS A MOTION TO REMOVE THE PROTECTIVE ORDER AND
20 TO COMPEL ALL DISCOVERY. THAT'S REQUEST NO. 1 THAT WAS MADE
21 ON JANUARY 14 IN THE WRITING SUBMITTED TO THE COURT, A COPY OF
22 WHICH MS. DOBRO HAS. THERE ARE A SERIES OF OTHER REQUESTS,
23 AND ULTIMATELY THE REQUEST ENDS WITH A REQUEST FOR A MOTION
24 FOR CONTINUANCE OF THE TRIAL. THAT'S ALL INDICATIVE OF A
25 REQUEST THAT IS DESIGNED, FOR TACTICAL REASONS, TO CAUSE

JANUARY 29, 2016

1 MR. PIPPINS: YES, YOUR HONOR.

2 MR. ROBINSON: YES.

3 THE COURT: AS TO THE ALTERNATES, WE WILL FOCUS ON
4 NUMBERS 63 THROUGH 72. THERE ARE EIGHT IN THAT VENIRE. CAUSE
5 CHALLENGES WERE GRANTED AS TO 67 AND 71, LEAVING EIGHT. EACH
6 SIDE WILL HAVE TWO PEREMPTORIES.

7 GOVERNMENT'S FIRST.

8 MR. ROBINSON: 72.

9 THE COURT: DEFENDANTS' NEXT.

10 MR. RODRIGUEZ: 69, YOUR HONOR.

11 THE COURT: GOVERNMENT'S FINAL.

12 MR. ROBINSON: PASS, YOUR HONOR.

13 THE COURT: AND DEFENDANTS' NEXT?

14 MR. RODRIGUEZ: 64.

15 THE COURT: ALL RIGHT. SO I WOULD PROPOSE, SINCE WE
16 HAVE FIVE, THAT WE SIMPLY PICK THE FIRST FOUR IN NUMERICAL
17 ORDER.

18 COUNSEL AGREE?

19 MR. RODRIGUEZ: YES, YOUR HONOR.

20 MR. ROBINSON: YES, YOUR HONOR.

21 THE COURT: THAT WOULD BE 63, 65, 66, AND 68.

22 ANY OBJECTION?

23 MR. BERG: YOUR HONOR, MAY I HAVE JUST ONE MOMENT?

24 THE COURT: YES.

25 MR. RODRIGUEZ: YOUR HONOR, WE HAVE NO OBJECTION TO

FEBRUARY 9, 2016

1 THE WAY THE JURY IS SET, OTHER THAN WE WOULD ASK THAT THE
2 GOVERNMENT STATE A NEUTRAL REASON FOR JUROR NO. 14, WHICH WAS
3 ONE OF THE CHALLENGES.

4 THE COURT: 14. SO THE RECORD IS CLEAR, ARE YOU
5 MAKING A BATSON MOTION?

6 MR. ROBINSON: THAT IS CORRECT, YOUR HONOR.

7 THE COURT: ALL RIGHT.

8 MR. ROBINSON.

9 MR. ROBINSON: YES, YOUR HONOR. I THINK THE CASE
10 LAW IS CLEAR THAT THE DEFENSE, IN MAKING A BATSON CHALLENGE,
11 MUST MAKE A PRIMA FACIE CASE OF INTENTIONAL DISCRIMINATION ON
12 THE PART OF THE GOVERNMENT. SIMPLY STANDING UP AND SAYING WE
13 MAKE A BATSON CHALLENGE IS INSUFFICIENT UNDER THE CASE LAW.

14 MR. RODRIGUEZ: YOUR HONOR, AS DISCUSSED YESTERDAY,
15 WITH RESPECT TO THE VENIRE THAT WE HAVE BEFORE THE COURT FOR
16 JURY SELECTION THERE ARE THREE AFRICAN-AMERICANS THAT WERE ON
17 THE JURY. ONE OF THEM WAS DISMISSED FOR CAUSE BECAUSE OF A --
18 HIS SON WAS A VICTIM OF A VIOLENT CRIME.

19 THE ONLY REMAINING JUROR THAT WAS ELIGIBLE FOR JURY
20 SELECTION, BASED ON THE NUMBERS THAT WE HAVE HERE, IS AN
21 AFRICAN-AMERICAN. SHE INDICATED SHE COULD BE FAIR AND
22 NEUTRAL. SHE INDICATED THAT THERE WAS NOTHING IN HER
23 BACKGROUND WHICH WOULD DEMONSTRATE THAT THERE WAS ANYTHING
24 THAT COULD BE -- THAT SHE COULD BE REMOVED FOR CAUSE. AND WE
25 BELIEVE THAT BECAUSE SHE WAS THE ONLY AFRICAN AMERICAN LEFT ON

FEBRUARY 9, 2016

1 THE JURY POOL AVAILABLE FOR THIS PARTICULAR JURY, WHEN THERE
2 ARE FOUR AFRICAN-AMERICAN MALES THAT ARE FACING TRIAL, THAT WE
3 BELIEVE THAT THERE IS A RACIAL BASIS FOR THE DISMISSAL OF THAT
4 JUROR.

5 THE COURT: THERE WERE THREE REMAINING AFRICAN
6 AMERICANS, IS NO. 14, WHO HAS NOW BEEN ASSIGNED -- OR WHO IS
7 SUBJECT OF A PEREMPTORY, OF THE CURRENT IMPANELMENT OF THE 12
8 DELIBERATING JURORS, ARE THERE ANY AFRICAN AMERICANS?

9 MR. RODRIGUEZ: NO, YOUR HONOR.

10 THE COURT: ALL RIGHT.

11 MR. ROBINSON.

12 MR. ROBINSON: YES, YOUR HONOR.

13 AS A PRELIMINARY MATTER, I THINK THAT, WE BELIEVE
14 THE GOVERNMENT HAS EXERCISED THIS STRIKE BASED ON THE RACE OF
15 JUROR NO. 14, IS NOT A PRIMA FACIE SHOWING. SO WE WOULD TAKE
16 ISSUE WITH THAT AS A PRIMA FACIE SHOWING.

17 THE SECOND POINT IS THERE IS ONLY ONE OTHER AFRICAN
18 AMERICAN PROSPECTIVE JUROR WITHIN THE VENIRE, AND THAT IS
19 JUROR NO. 47.

20 WE HAVE NO PROBLEM MOVING JUROR NO. 47 INTO THE POOL
21 OF ELIGIBLE JURORS. IF THE CONCERN IS TRULY AMONG THE DEFENSE
22 ATTORNEYS THAT WE HAVE REPRESENTATION AMONG OUR PETITE JURY
23 SELECTED TO HEAR THIS CASE FROM THE AFRICAN AMERICAN
24 COMMUNITY, WE WOULD STIPULATE AND AGREE THAT JUROR NO. 47
25 COULD BE MOVED UP INTO THE PANEL OF 12.

FEBRUARY 9, 2016

1 IT IS UP TO THEM IF THEY WANT TO DO THAT. WE WOULD
2 STIPULATE AND AGREE TO THAT.

3 AS TO THE RACE NEUTRAL REASONS FOR STRIKING JUROR
4 NO. 14, AGAIN, I DON'T BELIEVE WE GET THERE BECAUSE OF A LACK
5 OF PRIMA FACIE SHOWING. BUT, IN ANY EVENT, OF CONCERN TO THE
6 GOVERNMENT WAS FIRST HER EMPLOYMENT STATUS. SHE IS A
7 TEMPORARY WORKER, AND AS SUCH OUR CONCERN IS THAT BEING HERE
8 FOR A SIX TO EIGHT-WEEK TIME PERIOD, THAT WOULD PROVE TO BE A
9 FINANCIAL HARDSHIP TO HER. IT IS NOT LIKE SHE HAS FULL-TIME
10 EMPLOYMENT WHERE HER EMPLOYER WOULD PAY HER FOR TIME OFF.

11 IT IS OF CONCERN TO THE GOVERNMENT THAT GIVEN THE
12 FACT THAT WE ARE THE PARTY RESPONSIBLE FOR PROVING THIS CASE,
13 AND ARE THEREFORE SOMEWHAT VICARIOUSLY LIABLE FOR THE LENGTH
14 OF THE TRIAL, THAT THAT WOULD BE SOMETHING THAT SHE WOULD HOLD
15 AGAINST THE GOVERNMENT AS WE GO FORWARD.

16 THE SECOND CONCERN WAS THE CHILD CARE ISSUE. SHE
17 HAS TWO CHILDREN, ONE OF WHOM SUFFERS A DISABILITY. AND I
18 THINK COUPLING THAT WITH THE EMPLOYMENT STATUS COULD WORK A
19 HARDSHIP TO THAT JUROR. AND WE WERE CONCERNED THAT HER
20 THOUGHTS AND CONCERNS MAY BE ELSEWHERE OTHER THAN PRESENT IN
21 THIS COURTROOM CONSIDERING THE EVIDENCE AS IT IS PRESENTED
22 DURING THE COURSE OF THE TRIAL, GIVEN HER TWO MINOR CHILDREN
23 AND THE FACT THAT SHE IS DIVORCED. AND THE INDICATION WAS
24 THAT SHE IS THE SOLE CHILDCARE PROVIDER OF THE TWO CHILDREN,
25 INCLUDING THE DISABLED CHILD.

FEBRUARY 9, 2016

1 ALSO OF CONCERN TO THE GOVERNMENT WAS THE
2 NEIGHBORHOOD THAT SHE STATES SHE LIVES IN. IT IS A
3 NEIGHBORHOOD WHERE, THERE WILL BE TESTIMONY, DRUG DEALING IS
4 CONTROLLED BY THE WEST COAST CRIPS. AND FOR THE VERY SAME
5 REASON WE STRUCK JUROR NO. 10, WHO WAS FROM THE MOUNT HOPE
6 AREA, WHICH IS ON THE OTHER SIDE OF THE 15 FROM THE AREA
7 CONTROLLED BY THE WEST COAST CRIPS.

8 SO IT WAS A DELIBERATE DECISION AMONG THE GOVERNMENT
9 TO HAVE THOSE INDIVIDUALS WHO ARE CLOSE TO THE AREA IN WHICH
10 THE WEST COAST CRIPS CLAIMED DOMINANCE AND OPERATE WITH WHAT
11 THEY BELIEVE TO BE IMPUNITY THAT WE WOULD NOT WANT JURORS FROM
12 THAT PARTICULAR AREA TO CONSIDER THE FACTS OF THIS CASE. SO
13 THAT IS ONE OF THE FACTORS THAT CAME INTO IT.

14 THE RELATED CONCEPT THERE IS THAT THE TESTIMONY WILL
15 BE THAT WEST COAST CRIPS CONTROL THIS AREA OF TOWN. AND IF
16 JUROR NO. 14 IS FROM THIS AREA OF TOWN -- I DID COVER WITH THE
17 PANEL AS A WHOLE THIS CONCEPT OF FEAR AND THE CONCEPT OF
18 RENDERING A VERDICT AGAINST POWERFUL MEMBERS FROM THE
19 COMMUNITY WHERE JUROR NO. 14 LIVES, AND THAT CONTINUES TO BE A
20 CONCERN TO THE GOVERNMENT.

21 SHE DID NOT ARTICULATE ANY SPECIFIC CONCERN, BUT
22 AGAIN SHE HAS NOT HEARD THE EVIDENCE THAT I KNOW IS GOING TO
23 COME IN IN THIS CASE. AND THAT WAS OF PARTICULAR CONCERN TO
24 THE GOVERNMENT.

25 SHE WAS ALSO A WITNESS TO A CRIME IN LOS ANGELES

FEBRUARY 9, 2016

1 WHERE THE VICTIM OF THAT CRIME DECIDED NOT TO PRESS CHARGES.
2 AND, AS THE COURT IS WELL AWARE, THERE ARE GOING TO BE WITNESS
3 RELATED ISSUES IN THIS CASE; NOT ONLY THE FACT THAT THE
4 HOMICIDES WERE COMMITTED IN RETALIATION FOR PEOPLE WILLING TO
5 BE WITNESSES, BUT ALSO I ANTICIPATE A NUMBER OF GOVERNMENT
6 WITNESSES WILL BE HESITANT TO TAKE THE STAND AND TESTIFY IN
7 THIS CASE AND I THINK THAT THEIR DEMEANOR ON THE WITNESS STAND
8 WILL BEAR OUT THAT FACT.

9 AND THE FACT THAT SHE HAS HAD PRIOR EXPERIENCE WHERE
10 SHE WITNESSED A CRIME TAKING PLACE -- SHE DIDN'T SAY THERE WAS
11 NO CRIME, SHE WITNESSED A CRIME, AND THE VICTIM IN THAT CRIME
12 DECIDED NOT TO PRESS CHARGES, I THINK THAT PLAYS INTO ISSUES
13 WHICH WILL BE AT PLAY IN THE PRESENTATION OF THE EVIDENCE IN
14 THIS CASE. AND THAT WAS OF CONCERN TO THE GOVERNMENT.

15 THE FINAL POINT WAS, WHEN SHE WAS ASKED TO READ THE
16 QUESTIONNAIRE SHE WAS EXTREMELY NERVOUS WHEN SHE WAS ANSWERING
17 THE QUESTIONS. AND WHETHER THAT WAS A FUNCTION, QUITE
18 POSSIBLY, OF THE FACT THAT SHE HAD JUST HEARD THE CHARGES IN
19 THIS CASE, BUT THE FACT THAT SHE WAS VERY NERVOUS, SHE WAS
20 VISIBLELY SHAKING WHEN SHE WAS HOLDING THE QUESTIONNAIRE AND
21 ANSWERING THOSE QUESTIONS, WAS OF CONCERN TO THE GOVERNMENT.

22 SO THOSE ARE THE REASONS WHY SHE WAS STRUCK USING
23 ONE OF OUR PEREMPTORY CHALLENGES, AND ABSOLUTELY AT NO POINT
24 IN TIME DID HER RACE PLAY INTO THAT DECISION-MAKING PROCESS.

25 THE COURT: WHAT'S THE DEFENDANTS' POSITION WITH

FEBRUARY 9, 2016

1 RESPECT TO THE PROPOSED STIPULATION AS TO JUROR NO. 47?

2 MS. DOBRO: WE WOULD REJECT THAT PROPOSED
3 STIPULATION, YOUR HONOR. I DON'T BELIEVE THAT THAT IS A CURE
4 FOR A BATSON VIOLATION.

5 THE COURT: I AGREE IT IS NOT A CURE BUT IT IS --

6 MS. DOBRO: WE WOULD REJECT IT, WITH ALL DUE
7 RESPECT.

8 THE COURT: OKAY.

9 ON THIS ISSUE, I WOULD OVERRULE THE BATSON
10 OBJECTION. THERE HAVE BEEN SEVERAL REASONS STATED BY THE
11 GOVERNMENT. I WOULD FIND THAT THOSE STATED REASONS ARE
12 CONSISTENT WITH THE RECORD, CONSISTENT WITH THE STATEMENTS
13 ATTRIBUTED TO JUROR NO. 14. THEY ARE MADE IN GOOD FAITH.
14 THEY ARE RACE NEUTRAL. AND FOR THOSE REASONS I WOULD DENY THE
15 MOTION.

16 MR. ROBINSON: YOUR HONOR, IS THAT DENIAL — IS THE
17 COURT, IMPLICIT IN THAT DENIAL, THERE IS A FINDING THAT THERE
18 WAS NO PURPOSEFUL DISCRIMINATION; IS THAT CORRECT?

19 THE COURT: THAT'S CORRECT.

20 MR. ROBINSON: THANK YOU, YOUR HONOR.

21 THE COURT: ALL RIGHT. WE ARE IN A POSITION NOW TO
22 -- WE WILL BRING IN THE ENTIRE VENIRE. WE WILL SEAT THE
23 MEMBERS OF THE JURY. I WILL GIVE THE PRETRIAL ADMONITION. WE
24 CAN MOVE RIGHT INTO OPENING STATEMENT. DEPENDING ON THE
25 LENGTH OF IT, WE MAY RECESS PRIOR. I WILL PLAY IT BY EAR.

FEBRUARY 9, 2016

1 BUT IT IS NOT ALWAYS SOMETHING THAT WE ARE ABLE TO SIT AND
2 DISCUSS BECAUSE SOMETHING ELSE IS GOING ON.

3 THE COURT: ALL RIGHT. IT WAS MY UNDERSTANDING FROM
4 COUNSEL'S DISCUSSION, I THINK ON WEDNESDAY, THAT THE 48-HOUR
5 PERIOD BECAME MORE CONFINED GIVEN THE SPEED WITH WHICH WE ARE
6 PROCEEDING ON THE RECYCLING ROBBERY.

7 MR. BERG: THAT'S CORRECT, YOUR HONOR. I THINK
8 THERE WERE A NUMBER -- AND I'M NOT FAULTING THE GOVERNMENT,
9 BUT THERE WERE A NUMBER OF WITNESSES THAT WERE ON THE
10 WITNESS LIST THAT WERE NOT CALLED TO TESTIFY, SO THAT CUT THE
11 TIME FRAME DOWN SOMEWHAT; WHICH MOVED US INTO THE RECYCLING
12 CENTER ROBBERY QUICKER, WHICH LEFT LESS TIME FOR US TO DISCUSS
13 IT.

14 THE COURT: ALL RIGHT. MR. BERG, DO YOU HAVE ANY
15 OTHER INFORMATION ABOUT THIS REQUEST? IN OTHER WORDS, DO YOU
16 FEEL THAT YOU ARE ABLE TO COMMUNICATE WITH MR. ROSS AND TO
17 PROCEED?

18 MR. BERG: IF I WERE STAYING ON, YES. I MEAN, I
19 DON'T HAVE ANY ISSUES WITH WORKING WITH MR. ROSS. I DON'T
20 THINK IT IS ANYTHING THAT HE HAS AGAINST ME PERSONALLY, I JUST
21 KNOW THAT HE IS VERY FRUSTRATED ABOUT THE TIME FOR
22 PREPARATION. BUT IT IS NOT HIS -- IT IS NOT OUR BEING ABLE TO
23 WORK OR NOT WORK TOGETHER, IT IS JUST THE TIME FRAME.

24 THE COURT: ALL RIGHT. OKAY.

25 THIS IS AN UNUSUAL REQUEST IN THAT IT IS NOT TIMELY,

FEBRUARY 19, 2016

1 IT IS MADE IN THE MIDDLE OF THE TRIAL. IT WAS MADE ON
 2 WEDNESDAY, OR MAYBE THURSDAY MORNING.

3 DEFENDANT ROSS: WELL, YOU MIGHT AS WELL JUST HAVE
 4 THIS TRIAL WITHOUT ME, THEN, BECAUSE I AIN'T GETTING -- I
 5 AIN'T GETTING REPRESENTED PROPERLY. I CAN'T EVEN TALK TO HIM,
 6 MAN. KNOW WHAT I'M SAYING? LIKE, IT'S JUST NOT FAIR, MAN.
 7 THE WHOLE A.E.O. SHIT AND ALL THAT. KNOW WHAT I'M SAYING?
 8 IT'S NOT FAIR.

9 THE COURT: THE REQUEST --

10 DEFENDANT ROSS: HE AIN'T GOT NO TIME. HE ONLY BEEN
 11 ON THE CASE SIX MONTHS, THEY BEEN ON TWO YEARS. KNOW WHAT I'M
 12 SAYING? EVEN WHEN WE WENT BACK TO VICTOR TORRES, YOU DIDN'T
 13 WANT TO GIVE ME A NEW LAWYER BACK THEN, AND WE HAD A YEAR
 14 LEFT. THEN YOU FINALLY GAVE ME ONE SIX MONTHS AFTER THAT.
 15 THEN HE GOT TOOKEN OFF THE CASE AND YOU PUT HIM ON. KNOW WHAT
 16 I'M SAYING? COME ON, MAN, YOU AIN'T RIGHT.

17 THE COURT: THE REQUEST WAS MADE THURSDAY MORNING.
 18 WE WERE NEARLY TWO WEEKS INTO THE TRIAL, APPROXIMATELY 30
 19 WITNESSES INTO THE TRIAL, SO THE REQUEST IS NOT TIMELY, AS A
 20 MATTER OF LAW. THAT CHANGES DRAMATICALLY THE EVALUATION OF
 21 THE REQUEST.

22 UNDER THE CASE LAW THE ABILITY TO REPRESENT ONESELF
 23 IS SHARPLY CURTAILED, AN ABUSE OF DISCRETION STANDARD APPLIES,
 24 AND THE COURT HAS TO BALANCE THE PREJUDICE AGAINST YOUR
 25 LEGITIMATE INTEREST IN REPRESENTING YOURSELF AGAINST THE

FEBRUARY 19, 2016

1 POTENTIAL DISRUPTION OF TRIAL. AND EVALUATE, AMONG OTHER
2 CONSIDERATIONS, THE REASONS FOR THE REQUEST TO REPRESENT
3 ONESELF, THE QUALITY OF COUNSEL REPRESENTING YOU AND MATTERS
4 SIMILAR TO THAT, INCLUDING THE PROCLIVITY TO REQUEST
5 SUBSTITUTION OF COUNSEL.

6 THERE WAS NOT A NINTH CIRCUIT CASE DIRECTLY ON
7 POINT, BUT THERE ARE OTHER CIRCUITS THAT PROVIDE THOSE TYPES
8 OF FACTORS, INCLUDING UNITED STATES VERSUS MATSUSHITA, A
9 SECOND CIRCUIT CASE, 794 FED.2ND AT 46, A 1986 CASE.

10 HERE, WHAT IS CLEAR IS THAT THERE IS NOT A BREAKDOWN
11 IN COMMUNICATION. YOU HAVE BEEN ABLE, UNDER THE PARAMETERS OF
12 THE ATTORNEY EYES ONLY PROTECTIVE ORDER, TO MEET WITH
13 MR. ROSS.

14 IT IS ABUNDANTLY CLEAR TO ME, WHEN I OBSERVE THE TWO
15 OF YOU, AT ALL TIMES, INCLUDING IN TRIAL, THAT YOU
16 COMMUNICATE, YOU GET ALONG. YOU SMILE TOWARD EACH OTHER.
17 THERE IS OBVIOUS ABILITY TO COMMUNICATE.

18 DEFENDANT ROSS: SHALL I SHOW YOU DIFFERENT? ALL
19 RIGHT.

20 THE COURT: THERE IS NO QUESTION IN MY MIND THAT YOU
21 ARE COMMUNICATING AND ABLE TO DO SO.

22 THE FRUSTRATION THAT YOU HAVE MENTIONED RELATES TO
23 THE ATTORNEY'S EYES ONLY PROTECTIVE ORDER, AND THE PERCEPTION
24 ON YOUR PART THAT THERE ISN'T SUFFICIENT TIME TO DISCUSS WITH
25 YOUR ATTORNEY CERTAIN WITNESSES. YOU HAVE IDENTIFIED THREE.

FEBRUARY 19, 2016

1 YOU WERE FOCUSING ON TWO INITIALLY, MR. KALASHO AND
2 MS. SHARKEY. AND AS TO THOSE MATTERS I HAVE MADE CLEAR THAT
3 CERTAIN WITNESSES WOULD BE SUBJECT TO RE-CALL, INCLUDING
4 MS. SHARKEY. AND THE OTHER TWO WITNESSES YOU MENTIONED WOULD
5 BE AVAILABLE UPON RE-CALL, INCLUDING DETECTIVE BROWN AND MR.
6 KALASHO.

7 SO TO THE EXTENT THERE IS THE BELIEF THAT WITH
8 ADDITIONAL TIME TO COMMUNICATE WITH MR. BERG THERE WOULD BE
9 ADDITIONAL AREAS YOU WOULD LIKE TO EXPLORE ON CROSS, THAT CAN
10 BE ACCOMMODATED.

11 THE IDEA THAT IF YOU WERE TO REPRESENT YOURSELF THE
12 TRIAL WOULD CONTINUE SEAMLESSLY WITHOUT INTERRUPTION OR DELAY
13 I FIND TO BE IMPLAUSIBLE. IT IS SIMPLY NOT --

14 DEFENDANT ROSS: HE'S BEEN ON THE CASE SIX MONTHS.

15 THE COURT: IT IS SIMPLY NOT REALISTIC THAT THAT
16 WOULD OCCUR, GIVEN THE NUMBER OF WITNESSES, YOUR LACK OF LEGAL
17 TRAINING OR OTHER EXPERIENCE. AND SO IT SEEMS TO ME THAT
18 DELAY WOULD BE INEVITABLE IF YOU WERE ALLOWED TO REPRESENT
19 YOURSELF.

20 THE REASONS THAT YOU HAVE SET OUT FOR SELF
21 REPRESENTATION I ALSO FIND TO BE NOT CREDIBLE. THERE IS THE
22 ABILITY FOR YOU AND MR. BERG TO MEET. YOU HAVE HAD TIME TO
23 MEET, AND YOU WILL HAVE TIME TO MEET. AND YOU WILL HAVE
24 ADDITIONAL TIME, NOW THAT THE A.E.O. PROTECTIVE ORDER HAS BEEN
25 LIFTED, TO MEET AND CONFER WITH RESPECT TO ALL WITNESSES,

FEBRUARY 19, 2016

1 EXCEPT FOR THOSE RELATING TO THE PARIS HILL INCIDENT. SO
2 THERE WILL BE THAT TIME PROVIDED.

3 AND THE BELIEF ON YOUR PART THAT MR. BERG HAS NOT
4 HAD SUFFICIENT TIME TO PREPARE IS ALSO NOT CREDIBLE.

5 DEFENDANT ROSS: HE HAS NOT.

6 THE COURT: HE HAS HAD MORE THAN SIX MONTHS --

7 DEFENDANT ROSS: NO HE HASN'T.

8 THE COURT: -- WHICH IS SUFFICIENT TIME TO PREPARE.
9 HE HAS REPRESENTED THAT HE IS PREPARED, AND HE IS PREPARED.

10 IN ADDITION, MR. BERG IS OF THE HIGHEST QUALITY.
11 YOU ARE NOT GOING TO FIND BETTER COUNSEL. HE IS RATED AT THE
12 HIGHEST LEVELS BY ALL OF THE ORGANIZATIONS THAT RATE
13 ATTORNEYS, INCLUDING MARTINDALE HUBLE.

14 HE HAS REPRESENTED MANY DEFENDANTS IN HOMICIDE
15 CASES, STATE AND FEDERALLY. HE HAS SERVED ON CASES INVOLVING
16 CAPITAL ALLEGATIONS.

17 DEFENDANT ROSS: HOW MANY RICOS?

18 THE COURT: HE HAS SERVED ON RICO CASES, AS WELL,
19 INCLUDING BEFORE THIS COURT, INCLUDING THE LEAD DEFENDANT WHO
20 THE GOVERNMENT SOUGHT THE DEATH PENALTY AGAINST. SO HE IS
21 MOST HIGHLY QUALIFIED, AND THAT IS ANOTHER FACTOR THAT I WOULD
22 CONSIDER.

23 AS TO THE PROCLIVITY TO SEEK SUBSTITUTION OF
24 COUNSEL, THIS WOULD BE -- THIS IS DIFFERENT IN THAT IT IS A
25 REQUEST TO REPRESENT ONESELF, BUT WE WENT THROUGH THIS WITH

FEBRUARY 19, 2016

1 MR. TORRES. AND THERE WERE ALL KIND OF ALLEGATIONS AGAINST
 2 HIM ABOUT BEING RACIST AND OTHER ALLEGATIONS THAT WERE
 3 ATTRIBUTED TO MR. TORRES; NONE OF WHICH WERE TRUE.

4 DEFENDANT ROSS: HOW DO YOU KNOW?

5 THE COURT: ULTIMATELY --

6 DEFENDANT ROSS: HOW DO YOU KNOW, THOUGH?

7 THE COURT: I AM NOT HERE TO DEBATE WITH YOU.

8 DEFENDANT ROSS: YOU CAN'T SAY HE AIN'T A RACIST,
 9 THEN.

10 THE COURT: I AM NOT HERE TO DEBATE WITH YOU.

11 DEFENDANT ROSS: ALL RIGHT.

12 THE COURT: ULTIMATELY THE COURT GRANTED THAT
 13 REQUEST BECAUSE OF A NUMBER OF OTHER REASONS RELATING TO
 14 COMMUNICATION AND OTHER INCIDENTS.

15 FOR ALL OF THESE REASONS, THE REQUEST IS NOT ONLY
 16 UNTIMELY BUT I DON'T FIND, FOR THE REASONS THAT I HAVE
 17 INDICATED, THAT THE MOTION FOR SELF REPRESENTATION SHOULD BE
 18 GRANTED. AND IN THE EXERCISE OF DISCRETION, FOR ALL OF THESE
 19 REASONS, INCLUDING THE PRESENTATION OF EVIDENCE IN A TIMELY
 20 MANNER WITHOUT DELAY, I WOULD DENY THE REQUEST.

21 THE ISSUES WITH RESPECT TO WANTING TO RECROSS THE
 22 THREE WITNESSES YOU HAVE MENTIONED, AS I INDICATED, CAN
 23 BE ADDRESSED THROUGH A REQUEST TO HAVE THOSE WITNESSES
 24 RE-CALLED.

25 YOU CAN CONTINUE TO MEET WITH MR. BERG, AND IF THERE

FEBRUARY 19, 2016

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BEFORE HONORABLE DANA M. SABRAW, JUDGE PRESIDING

UNITED STATES OF AMERICA,)
PLAINTIFF,) CASE NO. 14CR1288-DMS
)
V.) SAN DIEGO, CALIFORNIA
)
TERRY CARRY HOLLINS,) TUESDAY, FEBRUARY 23, 2016
JERMAINE GERALD COOK,) 9:00 A.M. CALENDAR
MARCUS ANTHONY FOREMAN,)
WILBERT ROSS III,)
DEFENDANTS.)

)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL/DAY NINE

REPORTED BY:

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OFFICIAL COURT REPORTER
UNITED STATES COURTHOUSE
333 WEST BROADWAY ROOM 1393
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COOK:

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CAMPMAN - DIRECT BY MR. ROBINSON

1 SAN DIEGO, CALIFORNIA - TUESDAY, FEBRUARY 23, 2016 - 9:05 A.M.

2 * * *

3 THE CLERK: NO. 1 ON CALENDAR, CASE NO. 14CR1288,
4 UNITED STATES OF AMERICA VERSUS TERRY CARRY HOLLINS, JERMAINE
5 GERALD COOK, MARCUS ANTHONY FOREMAN, AND WILBERT ROSS III; ON
6 FOR JURY TRIAL.

7 THE COURT: GOOD MORNING.

8 WE HAVE ALL COUNSEL, PARTIES, JURORS PRESENT.

9 WELCOME BACK.

10 WE WILL PICK UP WITH THE DIRECT EXAMINATION OF DR.
11 CAMPMAN.

12 MR. ROBINSON.

13 MR. ROBINSON: THANK YOU, YOUR HONOR.

14 DIRECT EXAMINATION (RESUMED)

15 Q. (MR. ROBINSON) DR. CAMPMAN, WHEN WE LEFT OFF YESTERDAY
16 WE WERE TAKING A LOOK AT 414A, AND I'M GOING TO PUT THAT BACK
17 UP ON THE SCREEN.

18 AND WE WERE SPEAKING ABOUT THE STIPPLING THAT YOU
19 OBSERVED ON THE VICTIM IN THIS CASE, MEASHAL FAIRLEY.

20 A. YES.

21 Q. CAN YOU SHOW US AGAIN WHERE THE STIPPLING IS THAT WE SEE
22 IN THIS PARTICULAR PHOTOGRAPH, SIR?

23 A. YES. IT IS ALL THE RED SMALL ABRASIONS. OVER THERE.

24 Q. AND AGAIN, WITH REGARD TO THE STIPPLING THAT YOU WERE
25 ABLE TO OBSERVE ON THE VICTIM IN THIS CASE, WHAT IS YOUR

FEBRUARY 23, 2016

MAGGI - DIRECT BY MR. ROBINSON

1 GO TO ANY JAIL FACILITY TO INDEPENDENTLY VERIFY THAT
2 INFORMATION?

3 **A.** I DIDN'T GO TO THE JAIL FACILITY, I LOGGED INTO THE JAIL
4 EJIM [PH.] WEBSITE.

5 **Q.** WHAT DOES THAT WEBSITE ALLOW YOU ACCESS TO? WHAT TYPE
6 OF INFORMATION?

7 **A.** IF SOMEONE IS INCARCERATED IN SAN DIEGO COUNTY AT A
8 COUNTY JAIL FACILITY, IT WILL GIVE US THEIR NAME, WHAT THEY
9 ARE CURRENTLY CHARGED WITH, AND WHERE THEY ARE HOUSED.

10 **Q.** AND WERE YOU ABLE TO DETERMINE WHETHER OR NOT, AS YOU
11 WERE TOLD, DEFENDANT HOLLINS WAS INCARCERATED WITH DEFENDANT
12 FOREMAN, AND THAT THOSE TWO INDIVIDUALS WERE CELLED UP ALONG
13 WITH DARNELL BUTLER?

14 **A.** YES, I CONFIRMED THAT INFORMATION.

15 **Q.** AT WHICH FACILITY WERE THOSE THREE INDIVIDUALS HOUSED
16 TOGETHER?

17 **A.** GEORGE BAILEY.

18 **Q.** ONCE YOU DETERMINED THAT HOLLINS, FOREMAN, AND THIS
19 THIRD INDIVIDUAL, DARNELL BUTLER, WERE SHARING A CELL, DID YOU
20 COME UP WITH AN INVESTIGATIVE STRATEGY TO DEVELOP EVIDENCE
21 PURSUANT TO YOUR DUTIES RELATIVE TO THE HILL MURDER?

22 **A.** YES.

23 **Q.** WHAT INVESTIGATIVE STRATEGY DID YOU COME UP WITH?

24 **A.** BASICALLY WE DECIDED TO MIKE-UP THE CELL TO RECORD
25 CONVERSATIONS THAT THE THREE HAD WITHIN THEIR CELL.

FEBRUARY 23, 2016

MAGGI - DIRECT BY MR. ROBINSON

1 **Q.** WHAT STEPS DID YOU TAKE IN ORDER TO, USING YOUR WORDS,
2 MIKE-UP THE CELL?

3 **A.** I CONTACTED GEORGE BAILEY. I ENSURED THAT THAT WAS
4 WITHIN THEIR POLICY TO FACILITATE THAT, THAT THEY HAD THE
5 ABILITY TO INSTALL THE EQUIPMENT. THEY TOLD ME THAT THEY DID
6 BUT THEY DID NOT HAVE THE EQUIPMENT THAT WE WOULD NEED TO DO
7 IT. THEY REFERRED ME TO ANOTHER UNIT.

8 I CONTACTED SERGEANT VAN CRUZ WITH OUR DEPARTMENT, WHO
9 IS A MEMBER OF A TASK FORCE. HE SAID HE WAS ABLE TO PROVIDE
10 THE UNIT WE NEEDED, AND THAT UNIT GOT PASSED ON TO STAFF AT
11 GEORGE BAILEY.

12 **Q.** AND ARE YOU FAMILIAR WITH AN INDIVIDUAL BY THE NAME OF
13 VICTOR DAVID?

14 **A.** YES.

15 **Q.** IN WHAT CAPACITY IS HE EMPLOYED?

16 **A.** HE IS WITH THE DETENTIONS INVESTIGATIONS UNIT WITH THE
17 SHERIFF'S OFFICE.

18 **Q.** WAS HE -- DID HE HAVE ANY RELATIONSHIP WITH GEORGE
19 BAILEY, THE FACILITY WHERE FOREMAN, HOLLINS, AND THIS OTHER
20 INDIVIDUAL, DARNELL BUTLER, WERE BEING HOUSED?

21 **A.** HE IS A DEPUTY WITH THE AGENCY THAT OVERSEES THAT
22 FACILITY.

23 **Q.** AND DID YOU TASK HIM WITH ANYTHING IN REGARDS TO
24 MIKING-UP THE CELL BEING SHARED BY THOSE THREE INDIVIDUALS?

25 **A.** YES.

FEBRUARY 23, 2016

MAGGI - DIRECT BY MR. ROBINSON

1 Q. WHAT DID YOU ASK HIM TO DO IN THAT REGARD?

2 A. EXACTLY WHAT YOU JUST DESCRIBED; TO INSERT THE RECORDING

3 DEVICE INTO THE CELL, AND TO LATER RETRIEVE THE DEVICE.

4 Q. DID YOU PERSONALLY PARTICIPATE IN MIKING-UP THE CELL?

5 A. NOT BEYOND INSTRUCTING HIM TO DO IT.

6 Q. ARE YOU AWARE OF WHETHER OR NOT HE WAS ABLE TO PLACE A

7 SURREPTITIOUS RECORDING DEVICE IN THE CELL SHARED BY HOLLINS,

8 FOREMAN, AND DARNELL BUTLER?

9 A. YES.

10 Q. WERE YOU THE INDIVIDUAL WHO RECEIVED THAT RECORDING FROM

11 VICTOR DAVID?

12 A. RECEIVED IT FROM DETECTIVE ROB DAY, BUT ULTIMATELY, YES.

13 Q. WHEN YOU SAY ROB DAY, IS HE ON THE TASK FORCE THAT

14 PROVIDED THE LISTENING EQUIPMENT?

15 A. CORRECT. THE DEVICE ITSELF HAD TO BE DOWNLOADED TO

16 DISK, AND I WAS PROVIDED THOSE DISKS.

17 Q. THE DEVICE ITSELF, WHO OWNS THE DEVICE THAT WAS USED TO

18 MAKE THE SURREPTITIOUS RECORDING, IF YOU KNOW?

19 A. I BELIEVE IT IS THE FBI.

20 Q. AND IS IT A PROPRIETARY DEVICE? DO YOU HAVE ACCESS TO

21 THOSE TYPES OF DEVICES AS A SDPD OFFICER?

22 A. WELL, ACCESS TO IT, YES, VIA THIS TASK FORCE. I HAVE

23 NEVER ACTUALLY SEEN THE DEVICE, AND IT RECORDS -- THE ORIGINAL

24 FORMAT IS A FORMAT I AM NOT FAMILIAR WITH. SO IT WAS RECORDED

25 IN ITS NATIVE FORMAT, AND THEN ALSO CONVERTED TO A FORMAT THAT

FEBRUARY 23, 2016

MAGGI - DIRECT BY MR. ROBINSON

1 I WOULD BE ABLE TO LISTEN TO.

2 Q. AND WHAT FORMAT WAS IT CONVERTED TO SO YOU WOULD BE ABLE
3 TO LISTEN TO IT?

4 A. I BELIEVE IT WAS A WAVE FILE.

5 Q. JUST A REGULAR WAVE FILE?

6 A. I BELIEVE.

7 Q. APPROXIMATELY WHAT WAS THE DURATION OF THE RECORDING IN
8 THE JAIL CELL? WAS IT LONG?

9 A. VERY.

10 Q. AND DID YOU LISTEN TO IT IN ITS ENTIRETY?

11 A. I DID.

12 Q. DID YOU GENERATE A REPORT BASED UPON WHAT YOU WERE ABLE
13 TO HEAR ON THAT JAIL CELL RECORDING?

14 A. I DID.

15 Q. NOW, IN LISTENING TO THE JAIL CELL RECORDING, WERE YOU
16 ABLE TO IDENTIFY THE SPEAKERS?

17 A. EVENTUALLY, YES.

18 Q. WERE YOU ABLE TO DETERMINE WHETHER OR NOT THE RECORDING
19 DEVICE THAT HAD BEEN PLACED IN THE CELL RECORDED CONTINUOUSLY
20 FROM THE TIME OF ITS PLACEMENT TO THE TIME AT WHICH THE
21 RECORDING ENDED?

22 A. I HAVE NO REASON TO BELIEVE OTHERWISE.

23 Q. IN LISTENING TO IT, WAS THERE CONTINUITY OF CONVERSATION
24 THROUGHOUT THE ENTIRE RECORDING?

25 A. YES.

FEBRUARY 23, 2016

MAGGI - DIRECT BY MR. ROBINSON

1 Q. WERE THERE MULTIPLE, MULTIPLE HOURS OF RECORDING?

2 A. YES.

3 Q. WAS THERE ANY WAY, TO YOUR KNOWLEDGE, TO START AND STOP
4 THE RECORDING DEVICE ONCE IT HAD BEEN PLACED IN THE CELL?

5 A. NOT TO MY KNOWLEDGE, NO.

6 Q. WAS THERE ANYTHING ON THE RECORDING THAT YOU LISTENED TO
7 THAT WOULD INDICATE TO YOU THAT IT HAD BEEN STARTED AND
8 STOPPED DURING THE TIME PERIOD IT WAS PLACED IN THE CELL?

9 A. NO. THERE WERE MULTIPLE TRACKS ON THIS DISK. MY
10 UNDERSTANDING IS THE DATA ITSELF IS TOO BIG TO BE ONE
11 CONTINUOUS TRACK SO IT'S DIVIDED UP INTO MULTIPLE. THE FIRST
12 SEVERAL TRACKS SOUNDED LIKE THE DEVICE BEING SET UP THE CELL,
13 A COUPLE OF TESTS. THEN IT WAS ONE CONTINUOUS RECORDING ONCE
14 IT WAS PLACED.

15 Q. AND GIVEN THE DURATION OF THE RECORDING, WERE THERE TIME
16 PERIODS WHERE HOLLINS, FOREMAN, AND BUTLER WEREN'T SAYING
17 ANYTHING?

18 A. YES.

19 Q. DID YOU ACTUALLY HEAR THEM SLEEPING AND SNORING ON THE
20 RECORDING?

21 A. I DID.

22 Q. AND THE CONVERSATIONS THAT YOU WERE ABLE TO HEAR, WERE
23 THEY CONVERSATIONS WHERE IT FLOWED FROM BEGINNING TO END, IN
24 THE SENSE THAT IT MADE SENSE, AS YOU LISTENED TO IT GO THROUGH
25 THE ENTIRE CONVERSATION?

FEBRUARY 23, 2016

MAGGI - DIRECT BY MR. ROBINSON

1 **A.** MOST OF THE TIME. THE PROBLEM WITH RECORDING IN A JAIL
2 CELL IS OFTENTIMES THERE IS ECHOES OR IF SOMEONE IS TALKING
3 VERY QUIETLY, THEN THERE IS BACKGROUND NOISES. SO I COULDN'T
4 PICK UP EVERY CONVERSATION BEGINNING TO END, BUT IT SOUNDED
5 LIKE THEY WERE CONTINUOUS.

6 **Q.** AND THE JAIL CELL RECORDING HAS BEEN MARKED FOR
7 IDENTIFICATION IN THIS PROCEEDING AS GOVERNMENT'S EXHIBIT
8 NO. 1039.

9 PRIOR TO TESTIFYING TODAY HAVE YOU HAVE LISTENED TO THAT
10 PARTICULAR EXHIBIT?

11 **(EXHIBIT 1039 MARKED FOR IDENTIFICATION)**

12 **A.** I DON'T KNOW IF IT IS THIS PARTICULAR -- I HAVE LISTENED
13 TO THE ENTIRE AUDIO. I DON'T KNOW IF IT IS THE DISK YOU HAVE
14 HERE.

15 **Q.** THE AUDIO THAT YOU HAD, DID YOU PROVIDE IT TO THE FBI
16 AGENTS WHO WERE HANDLING THIS PROSECUTION?

17 **A.** YES.

18 **Q.** AND THE WAVE FORMAT IN WHICH YOU LISTENED TO IT, THAT
19 WAVE FORMAT, COULD IT HAVE BEEN MODIFIED IN ANY WAY?

20 **A.** NOT THAT I AM AWARE OF.

21 **Q.** DID YOU MODIFY IT IN ANY WAY?

22 **A.** I DID NOT.

23 **Q.** WOULD THERE BE ANY REASON FOR YOU TO MODIFY THE
24 RECORDING THAT YOU LISTENED TO?

25 **A.** NO.

FEBRUARY 23, 2016

MAGGI - DIRECT BY MR. ROBINSON

1 Q. NOW, REGARDING YOUR REPORT ABOUT THAT RECORDING, DO YOU
2 GO THROUGH AND HIGHLIGHT CERTAIN PORTIONS OF THAT RECORDING?

3 A. I DO.

4 Q. WHAT WAS YOUR PURPOSE IN DOING SO?

5 A. IF THE CONVERSATIONS INVOLVED OUR INVESTIGATION AT ALL,
6 OR ANYTHING THAT SOUNDED LIKE ANY SORT OF ACT OF VIOLENCE OR
7 ANYTHING HAVING TO DO WITH GANG ACTIVITY, I WOULD TRY AND
8 BASICALLY NOTE AS MUCH OF THAT CONVERSATION AS I COULD
9 UNDERSTAND.

10 Q. NOW, YOU STATED ONE OF YOUR PRIMARY PURPOSES IN PLACING
11 THIS RECORDING DEVICE IN THE JAIL CELL WAS IN RELATION TO YOUR
12 DUTIES WITH THE PARIS HILL MURDER?

13 A. CORRECT.

14 Q. DID YOU DEVELOP INFORMATION ABOUT ANYTHING OTHER THAN
15 THE PARIS HILL MURDER?

16 A. YES.

17 Q. AND WAS THAT INFORMATION DOCUMENTED IN YOUR REPORT?

18 A. YES.

19 MR. ROBINSON: YOUR HONOR, I HAVE NO FURTHER
20 QUESTIONS AT THIS TIME.

21 THE COURT: CROSS-EXAMINATION.

22 MR. RODRIGUEZ: YES.

23 CROSS-EXAMINATION

24 Q. (MR. RODRIGUEZ) SIR, YOU INDICATED THAT YOU HAD ACCESS
25 TO THIS RECORDING DEVICE BECAUSE OF A TASK FORCE THAT YOU WERE

FEBRUARY 23, 2016

1 MEET AT SIDEBAR AND ADDRESS IT OUTSIDE OF THE PRESENCE OF THE
2 JURY.

3 **MR. RODRIGUEZ:** THANK YOU, YOUR HONOR.

4 **THE COURT:** ANY OTHER MATTERS WE NEED TO ADDRESS?

5 **DEFENDANT ROSS:** WE NEED A FAIR TRIAL, MAN.

6 **DEFENDANT FOREMAN:** WE NEED A FAIR JUDGE.

7

8 * * *

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

11 S/LEEANN PENCE 9/15/2016
12 LEEANN PENCE, OFFICIAL COURT REPORTER DATE.
13
14
15
16
17
18
19
20
21
22
23
24
25

FEBRUARY 23, 2016

	INDEX OF WITNESSES			
	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	CAMPMAN, STEVEN			
4	BY MR. ROBINSON	1959		1961
5	BY MR. RODRIGUEZ			1960
6				
7	HEBERT, HEIDI			
8	BY MR. LESHNER	1962		1997
9	BY MR. PIPPINS		1980	2004
10				
11	EDWARDS, BARIKA			
12	BY MR. LESHNER	2006		
13	BY MR. BERG		2030	
14	BY MR. RODRIGUEZ		2044	
15	BY MR. PIPPINS		2045	
16				
17	JOSEPH, DARRIN			
18	BY MR. ROBINSON	2048		2083, 2090
19	BY MR. RODRIGUEZ		2068	2088
20	BY MR. BERG		2081	
21				
22	NORTON, LEE			
23	BY MR. ROBINSON	2091		2108
24	BY MR. RODRGIGUEZ		2107	2109
25				

FEBRUARY 23, 2016

1
2 PFANNENSTIEL, ZACH
3 BY MR. LESHNER 2110 2117
4 BY MR. BERG 2115
5
6 HEBERT, HEIDI
7 BY MR. LESHNER 2117
8
9 OLIVER, BRENAN
10 BY MR. LESHNER 2124
11
12 HOOD, JACK
13 BY MR. LESHNER 2144 2147
14 BY MR. RODRIGUEZ 2146
15
16 RAMOS, CHRIS
17 BY MR. LESHNER 2147
18
19 LEVENBERG, THOMAS
20 BY MR. ROBINSON 2154
21
22 OLIVER, BRENAN
23 BY MR. ROBINSON 2159
24
25

FEBRUARY 23, 2016

1	MILLAN, ARMANDO	
2	BY MR. LESHNER	2164
3		
4	BEYERS, KRISTIN	
5	BY MR. LESHNER	2166
6		
7	MAGGI, LOUIS	
8	BY MR. ROBINSON	2172
9	BY MR. RODRIGUEZ	2183
10		2187
11	DAVID, VICTORINO	
12	BY MR. ROBINSON	2188
13		
14	OLIVER, BRENAN	
15	BY MR. ROBINSON	2198
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

FEBRUARY 23, 2016

1

2 INDEX OF EXHIBITS

3

4

EX. IDENTIFIED RECEIVED

5

6 405 1968 1968

7 406 1968 1968

8 407 1968 1968

9 408 1968 1968

10 407A 1968 1968

11 409 1968 1968

12 407B 1975

13 411 1976 1976

14 412 1976 1976

15 413 1976 1976

16 415A 1979 1980

17 I 1983 1983

18 F 1986 1986

19 F1 1986 1986

20 F2 1986 1986

21 G 1989 1989

22 G1 1989 1989

23 G2 1989 1989

24 H 1991 1991

25 H1 1991 1991

FEBRUARY 23, 2016

1	H2	1991	1991
2	J	1995	1996
3	422	2007	2008
4	434	2060	2069
5	N	2082	2082
6	417	2088	2114
7	417A	2088	2114
8	424B	2096	2096
9	424A-1	2098	2099
10	424A-3	2105	2105
11	419	2114	2114
12	242A-4	2106	2106
13			
14			
15			
16			
17			
18			
19			
20			
21			
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23			
24			
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FEBRUARY 23, 2016

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BEFORE HONORABLE DANA M. SABRAW, JUDGE PRESIDING

UNITED STATES OF AMERICA,)
PLAINTIFF,) CASE NO. 14CR1288-DMS
)
V.) SAN DIEGO, CALIFORNIA
)
TERRY CARRY HOLLINS,) WEDNESDAY FEBRUARY 24, 2016
JERMAINE GERALD COOK,) 9:00 A.M. CALENDAR
MARCUS ANTHONY FOREMAN,)
WILBERT ROSS III,)
DEFENDANTS.)

)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL/DAY TEN

REPORTED BY:

LEE ANN PENCE,
OFFICIAL COURT REPORTER
UNITED STATES COURTHOUSE
333 WEST BROADWAY ROOM 1393
SAN DIEGO, CALIFORNIA 92101

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DAVID D. LESHNER
ASSISTANT U.S. ATTORNEYS
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FOR DEFENDANT
COOK:

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HIGGS FLETCHER & MACK
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FOR DEFENDANT
FOREMAN:

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FOR DEFENDANT
ROSS:

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LAW OFFICES OF MICHAEL S. BERG
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SAN DIEGO, CALIFORNIA 92101

OLIVER - DIRECT BY MR. ROBINSON

1 SAN DIEGO, CALIFORNIA - WEDNESDAY, FEBRUARY 24, 2016 9:00 A.M.

2 * * *

3 THE CLERK: NO. 1 ON CALENDAR, UNITED STATES OF
4 AMERICA VERSUS TERRY CARRY HOLLINS, JERMAINE GERALD COOK,
5 MARCUS ANTHONY FOREMAN, AND WILBERT ROSS III, ON FOR JURY
6 TRIAL.

7 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN.

8 WE HAVE ALL JURORS PRESENT, COUNSEL AND PARTIES.

9 WE WILL PICK UP WITH SPECIAL AGENT OLIVER.

10 SIR, I WOULD REMIND YOU THAT YOU REMAIN UNDER OATH.

11 THE WITNESS: YES, SIR.

12 THE COURT: THANK YOU.

13 MR. ROBINSON.

14 DIRECT EXAMINATION

15 Q. (MR. ROBINSON) SPECIAL AGENT OLIVER, WHEN WE LEFT OFF
16 YESTERDAY WE WERE TALKING ABOUT YOUR EXPERIENCE LISTENING TO
17 THE CONVERSATIONS OF THE DEFENDANTS IN THIS CASE. DO YOU
18 RECALL GIVING THAT TESTIMONY?

19 A. YES, SIR.

20 Q. CAN YOU GIVE ME AN APPROXIMATE NUMBER OF APPROXIMATELY
21 HOW MANY CONVERSATIONS OF THE DEFENDANTS THAT YOU LISTENED TO
22 PURSUANT TO YOUR DUTIES AS CO-CASE AGENT IN THIS
23 INVESTIGATION?

24 A. IT WOULD BE IN THE THOUSANDS.

25 Q. DID YOU ENCOUNTER, IN LISTENING TO THOSE CONVERSATIONS,

FEBRUARY 24, 2016

OLIVER - DIRECT BY MR. ROBINSON

1 A. IT DOES.

2 Q. DOES THAT TRANSCRIPT CORRECTLY IDENTIFY THE SPEAKERS IN
3 THE PORTION OF THE RECORDED CONVERSATION THAT YOU HAVE
4 SELECTED TO PLAY FOR THIS JURY?

5 **A.** IT DOES. ACTUALLY ALL THREE PARTICIPANTS -- BUTLER,
6 HOLLINS, AND FOREMAN -- ALL ARE SPEAKING IN THIS PARTICULAR
7 SECTION.

8 Q. ALL THREE OF THE PEOPLE WHO WERE IN JAIL CELL NO. 128 ON
9 THE DAY THE RECORDING WAS MADE?

10 | A. YES, SIR.

11 Q. THEY ARE ALL PARTICIPANTS IN THE CONVERSATION?

12 || A. THEY ARE.

13 Q. DOES THE TRANSCRIPT, MARKED FOR IDENTIFICATION AS 1039A,
14 CORRECTLY REFLECT THE CONTENTS OF THE CONVERSATION THAT WAS
15 RECORDED WITH THE SURREPTITIOUS RECORDING DEVICE WE HAVE HEARD
16 TESTIMONY ABOUT?

17 A. IT DOES.

18 Q. IS THERE A CORRESPONDING AUDIO FILE THAT HAS THE ACTUAL
19 INTERCEPTED CONVERSATION THAT CORRESPONDS TO 1039A?

20 A. IT DOES

21 || 8 YOU HAVE A COMPACT DISK IN FRONT OF YOU?

22 | A T DO

23 Q. IS THAT COMPACT DISK MARKED FOR IDENTIFICATION AS
24 GOVERNMENT'S EXHIBIT 1000G2.

25 (EXHIBIT 1000G MARKED FOR IDENTIFICATION)

FEBRUARY 24, 2016

1 **THE COURT:** ARE THERE ANY NOTES?

2 **MR. ROBINSON:** NO. SPECIAL AGENT HARDING WAS
3 PRESENT. IT WASN'T LIKE I DID THIS INTERVIEW BY MYSELF. AND
4 TO THE EXTENT -- AND HER ATTORNEY, MR. BROWN, WAS THERE AS
5 WELL. IF THEY WANT TO DO AN INDEPENDENT INQUIRY INTO THE
6 MATTER, GO FORTH AND DO A FRUITLESS INQUIRY INTO THE MATTER.
7 BUT AS TO MY PERSONAL NOTES, IF THERE WERE NOTES, I WOULD
8 DECLINE TO GIVE THEM. THERE ARE NO NOTES.

9 **THE COURT:** MR. BROWN WAS PRESENT?

10 **MR. ROBINSON:** YES.

11 **THE COURT:** ALL RIGHT. SO I'M NOT GOING TO CONDUCT
12 MY OWN INVESTIGATION, BUT YOU ARE OBVIOUSLY FREE TO CONTACT
13 MR. BROWN.

14 **MR. PIPPINS:** AGAIN, MY REQUEST WAS BASED ON
15 THINKING THERE WAS A DISCREPANCY FROM THE SIDEBAR. AS I SAID,
16 THIS IS A MORE DETAILED EXPLANATION.

17 **THE COURT:** OKAY. THANK YOU.

18 **MR. RODRIGUEZ:** THANK YOU, YOUR HONOR.

19

20 * * *

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

24 S/LEEANN PENCE 9/15/2016
25 LEEANN PENCE, OFFICIAL COURT REPORTER DATE.

FEBRUARY 24, 2016

1

2 INDEX OF WITNESSES

3

DIRECT CROSS REDIRECT RECROSS

4 OLIVER, BRENAN

5 BY MR. ROBINSON 2223 2253

6 BY MR. RODRIGUEZ 2239

7

8 DERRICK, BRUCE

9 BY MR. LESHNER 2256 2352

10 BY MR. BERG 2337 2354

11

12 BRADLEY, SHARIKA

13 BY MR. ROBINSON 2290 2332

14 BY MR. BERG 2318

15

16 BOSTIC, SHAWNELLA

17 BY MR. LESHNER 2359 2379

18 BY MR. BERG 2376

19

20 DADO, WALEED

21 BY MR. ROBINSON 2381

22

23 DRILLING, ERIC

24 BY MR. LESHNER 2387 2398

25 BY MR. BERG 2395

FEBRUARY 24, 2016

1
2 BUROW, DANIEL
3 BY MR. LESHNER 2399
4 BY MR. BERG 2409
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FEBRUARY 24, 2016

1

2 INDEX OF EXHIBITS

3

4

EX. IDENTIFIED RECEIVED

5

6 1039A 2229 2231

7 1000G 2230 2231

8 426F 2259

9 426 2261 2261

10 427A THRU

11 427I 2272 2273

12 426C 2273 2273

13 523 2299 2299

14 501 2304 2305

15 503 2305 2305

16 504 THRU

17 512 2305 2305

18 513 THRU

19 517 2306 2306

20 518 2306 2307

21 519 2306 2308

22 520 2307 2308

23 521 2308 2308

24 522 2308 2308

25 524 2360 2360

FEBRUARY 24, 2016

1	533	2382	2382
2	25	2384	2385
3	612	2394	2394
4	617	2402	2404
5	618	2406	2407
6			
7			
8			
9			
10			
11			
12			
13			
14			
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FEBRUARY 24, 2016

1 LARGE PART HIS FRUSTRATION DEALS WITH THE FACT THAT HE FEELS
2 WE HAVE NOT HAD SUFFICIENT TIME TO MEET WITH REGARD TO THE
3 NUMEROUS WITNESSES AND EVIDENCE THAT IS COMING FORTH WITH
4 REGARD -- IN THAT REGARD IT HAD TO DO WITH THE COURT'S
5 ALLOWING US TO HAVE ACCESS TO WITNESS INFORMATION 48 HOURS
6 BEFORE A WITNESS WERE TO TESTIFY. AND MR. ROSS DOES NOT FEEL
7 THAT HE HAS HAD SUFFICIENT TIME TO MEET WITH ME TO PROVIDE ME
8 WITH INFORMATION THAT HE WOULD HAVE WITH REGARD TO WITNESS
9 INFORMATION AND INFORMATION THAT WE COULD USE IN THE DEFENSE
10 OR CROSS-EXAMINATION OF THOSE WITNESSES.

11 AND I BELIEVE HE IS BECOMING INCREASINGLY FRUSTRATED
12 BY THE FACT THAT THE TRIAL IS PROGRESSING QUICKLY, AND SUCH
13 THAT WE ARE GIVEN LESS TIME TO MEET WITH REGARD TO CERTAIN
14 WITNESSES THAT ARE COMING ON THE STAND.

15 **THE COURT:** IS THAT TRUE WITH RESPECT TO WITNESSES
16 WHO HAVE ALREADY TESTIFIED, OR IS IT IN ANTICIPATION OF
17 WITNESSES WHO WILL BE COMING UP?

18 **MR. BERG:** I THINK THE FIRST TIME IT -- I DON'T WANT
19 TO SPEAK FOR HIM, AGAIN. BUT I THINK THE FIRST TIME IT
20 APPEARED WAS WITH MR. KALASHO THIS MORNING, BECAUSE WE HAD
21 JUST, BASICALLY, HAD ABOUT, MORE OR LESS, A LITTLE MORE THAN
22 24 HOURS. AND THERE WERE OBVIOUSLY OTHER ITEMS THAT WE HAD TO
23 DEAL WITH IN TERMS OF A DEFENSE, SO THAT I WAS UNABLE TO MEET
24 WITH MR. ROSS LAST NIGHT.

25 ONE OF THE ISSUES WAS THE TRANSCRIPT THAT I RECEIVED

FEBRUARY 28, 2016

1 FROM THE GOVERNMENT ON THE JENCKS MATERIAL, SO I DID NOT MEET
2 WITH MR. ROSS LAST NIGHT AFTER COURT. I KNOW THAT HE WAS
3 FRUSTRATED, THAT HE FELT I DID NOT HAVE HIS INFORMATION TO
4 CROSS-EXAMINE MR. KALASHO ON.

5 THE COURT: ALL RIGHT.

6 MR. ROSS.

7 DEFENDANT ROSS: HE ONLY BEEN ON THIS CASE FOR SIX
8 MONTHS. KNOW WHAT I'M SAYING? THERE'S NO WAY IN HELL WE
9 GONNA BE READY FOR THIS CASE IN SIX MONTHS. KNOW WHAT I'M
10 SAYING? THEY HAS HAD, LIKE, TWO YEARS TO GO OVER ALL OF THIS
11 DISCOVERY. KNOW WHAT I'M SAYING? THEY'VE BEEN ON THE CASE
12 FOR TWO YEARS. THERE IS NO POSSIBLE WAY HE IS READY. AND WE
13 HAVEN'T EVEN WENT OVER ALL OF THIS STUFF. KNOW WHAT I'M
14 SAYING? SO I MIGHT AS WELL REPRESENT MYSELF. KNOW WHAT I'M
15 SAYING? 'CAUSE HE DON'T KNOW WHAT'S GOING ON. KNOW WHAT I'M
16 SAYING? AND IT'S MY RIGHT, SO I WANT TO JUST REPRESENT
17 MYSELF.

18 THE COURT: OKAY.

19 DEFENDANT ROSS: IT'S MY RIGHT SO -- 'CAUSE HE'S NOT
20 GIVING ME NO INFORMATION. YOU GUYS JUST LIFTED THE A.E.O.
21 YESTERDAY, AND HE AIN'T CAME TO SEE ME LAST NIGHT SO WE AIN'T
22 TALKED ABOUT WHO IS GOING TO GET ON THE STAND THIS MORNING,
23 AND IT'S OVER. KNOW WHAT I'M SAYING?

24 YOU GUYS ARE TURNING A BLIND EYE, JUST LIKE THE
25 ASIAN LADY, THE JUROR. COME ON, MAN. SHE HAD TO SEE US WHEN

FEBRUARY 28, 2016

1 IT HAS BEEN CLEAR TO ME, I THINK MS. DOBRO ANNOUNCED WELL
2 BEFORE TRIAL, THAT EVERYONE KNOWS WHAT THEIR THEORY OF DEFENSE
3 IS, AND THIS IS COMPLETELY CONSISTENT WITH THAT THEORY OF
4 DEFENSE.

5 MS. DOBRO: ACTUALLY -- I AM SORRY. I DON'T WANT TO
6 INTERRUPT.

7 THE COURT: WELL, THAT'S ALL I HAD TO SAY ON THAT.

8 I WOULD LIKE TO RESERVE ON THAT, AND WE CAN PICK IT
9 UP TOMORROW.

10 ON THE JURY INSTRUCTIONS AND VERDICT FORMS, THE
11 GOVERNMENT -- I HAVEN'T READ THE RECENT PROPOSAL THIS MORNING.

12 HAVE DEFENSE COUNSEL LOOKED AT THOSE?

13 MS. DOBRO: I SAW THAT THEY HAD ARRIVED AS I WAS
14 WALKING OVER, BUT HAVE NOT HAD A CHANCE.

15 MR. BERG: I DID, YOUR HONOR. I DON'T KNOW IF YOU
16 WANT TO HAVE US COMMENT LATER OR MAKE A COUPLE COMMENTS NOW.

17 THE COURT: CAN YOU JUST GIVE ME GENERAL COMMENTS
18 NOW, AND WE WILL COME BACK TO IT TOMORROW.

19 MR. BERG: YES. I WOULD ASK THAT THE NICKNAMES OF
20 EACH INDIVIDUAL DEFENDANT NOT BE LISTED. I DON'T SEE THAT
21 THAT IS A NECESSITY ON A VERDICT FORM. I THINK JUST THEIR
22 GIVEN NAME IS SUFFICIENT.

23 AND I WOULD ASK THAT EACH -- THAT EACH DEFENDANT,
24 THE INDIVIDUAL OVERT ACTS THAT THE JURORS FIND FOR THE
25 DEFENDANTS HAVING BEEN COMMITTED BE LISTED FOR EACH PARTICULAR

MARCH 2, 2016

1 DEFENDANT; NOT JUST A YES, THEY WERE COMMITTED. I THINK THERE
2 SHOULD BE A FINDING AS TO WHAT OVERT ACT IS SPECIFIED.

3 THE COURT: DO YOU HAVE AUTHORITY FOR THAT?

4 MR. BERG: I DID NOT MAKE ONE. WE CAN PROVIDE THAT,
5 YOUR HONOR.

6 THE COURT: I MEAN CASE LAW.

7 MR. BERG: I DO NOT. I DON'T HAVE CASE LAW ON IT.
8 I WOULD BE HAPPY TO LOOK IT UP.

9 MR. PIPPINS: I HAD SEEN IN ANOTHER SIMILAR TRIAL
10 THAT I DID, FOR THE ACTS THAT HAD A STATUTORY MAXIMUM OVER THE
11 RICO STAT MAX OF 20, THAT I THOUGHT THAT WAS CUSTOMARY IN THIS
12 DISTRICT. BUT WE CAN LOOK FOR CASE LAW.

13 MR. ROBINSON: THAT'S THE FORM FROM THE 06-1243 CASE
14 THAT WAS CHALLENGED ON APPEAL AND IT WAS AN UPHELD ON APPEAL
15 AS TO THE APPRENDI RELATED FINDING TO MAKE THE STATUTORY
16 MAXIMUM A STATUTORY MAXIMUM OF LIFE. THERE IS NO AUTHORITY
17 THAT REQUIRES THE JURORS TO FIND ANY OVERT ACTS OR ANY
18 PARTICULAR RACKETEERING ACTS, SO THAT ACTUAL VERDICT FORM
19 TRACKS THE ONE THAT HAS BEEN APPROVED BY THE NINTH CIRCUIT.

20 AS TO THE ALIASES OF THE DEFENDANT, ORDINARILY I
21 WOULD NOT HAVE INCLUDED THAT IN THE VERDICT FORM, BUT UNDER
22 THE UNIQUE FACTS AND CIRCUMSTANCES THIS CASE, A NUMBER OF
23 WITNESSES HAVE TESTIFIED SOLELY BASED ON THE ALIASES OF THE
24 DEFENDANTS. AND I THINK THAT, GIVEN THAT TYPE OF TESTIMONY,
25 IT IS IMPORTANT FOR THE JURORS TO HAVE THAT ON THE VERDICT.

MARCH 2, 2016

1 **MR. BERG:** THAT'S WHAT I WAS ARGUING YESTERDAY THAT
2 THE JURY WOULD NEED TO FILL OUT WHAT OVERT ACT -- WHAT WAS
3 COMMITTED BY THE INDIVIDUALS.

4 **THE COURT:** SO IS THAT A --

5 **MR. BERG:** ON THE CONSPIRACY.

6 **THE COURT:** DOES THAT RELATE -- I SEE. BUT THESE
7 INSTRUCTIONS ARE SIMPLY DEFINING FOR THE JURORS WHAT THE
8 CHARGE IS AND WHAT THE LAW IS.

9 **MR. BERG:** LET ME POINT THE COURT TO IT.

10 **THE COURT:** I MISSPOKE. BECAUSE OF THE RACKETEERING
11 ACTS THE JURY HAS TO KNOW WHAT THE LAW IS ON RACKETEERING
12 ACTS, SO THAT'S ALL IT IS DOING.

13 **MR. BERG:** ON NO. 3 OF THEIR PATTERN INSTRUCTION,
14 CONSPIRACY TO COMMIT MURDER, THEY HAVE INDICATED ONE OF THE
15 MEMBERS OF THE CONSPIRACY COMMITTED AT LEAST ONE OVERT ACT.
16 AND THE CAL CRIM 563 HAS A BLANK OR A LISTING OF WHAT THE
17 OVERT ACT WAS THAT WAS COMMITTED. AND I THINK THAT THE JURY
18 SHOULD BE REQUIRED TO LIST WHAT OVERT ACT AN INDIVIDUAL
19 DEFENDANT IS CHARGED WITH HAVING COMMITTED.

20 **THE COURT:** WOULDN'T THAT BE MORE OF A VERDICT FORM
21 ISSUE AS OPPOSED TO SIMPLY INSTRUCTING THE JURY WHAT THE LAW
22 IS?

23 **MR. BERG:** I AGREE, YOUR HONOR. YES, I DO AGREE.

24 **THE COURT:** OKAY.

25 **MR. LESHNER:** YOUR HONOR, I DO NOTE THERE IS

MARCH 3, 2016

1 BY THE GOVERNMENT.

2 MS. DOBRO: AND MAY CO-COUNSEL JOIN?

3 THE COURT: YES.

4 MR. RODRIGUEZ: WE JOIN.

5 MS. DOBRO: IN THAT DENIAL.

6 THE COURT: THERE IS SUFFICIENT EVIDENCE TO GO TO
7 THE JURY AND BE UPHELD ON ANY APPEAL ON THAT ISSUE.

8 ON THE JURY INSTRUCTIONS, I WILL ENDEAVOR TO PREPARE
9 A DRAFT SET OF INSTRUCTIONS AND E-FILE IT WITH COUNSEL OR
10 EMAIL IT TO COUNSEL LATER TODAY. AND WE CAN ADDRESS IT EITHER
11 FRIDAY OR MONDAY, AS WELL AS THE VERDICT FORM.

12 MR. PIPPINS: YOUR HONOR, I JUST HAD -- IF I CAN
13 MAKE A BRIEF COMMENT ABOUT THE VERDICT FORM?

14 THE COURT: YES.

15 MR. PIPPINS: I ACKNOWLEDGE, AS THE GOVERNMENT
16 STATED, THAT THE COURT IS NOT BOUND BY CASE LAW TO PROVIDE THE
17 JURY WITH A MORE SPECIFIED SPECIAL FINDING TYPE VERDICT FORM,
18 BUT I THINK IT IS APPROPRIATE FOR -- I THINK THE COURT DOES
19 HAVE THE ABILITY TO DO SO IF THE COURT THINKS IT IS
20 APPROPRIATE.

21 IT IS CLEAR THAT THE JURY IS GOING TO BE ASKED TO
22 MAKE A UNANIMOUS FINDING ON CERTAIN PREDICATE RACKETEERING
23 ACTS. I DON'T THINK IT IS ASKING MUCH TO HAVE THE JURY SHOW
24 THEIR WORK IN THE SENSE OF WHAT DECISION THEY MADE. THEY ARE
25 ALREADY MAKING THE DECISION, I DON'T THINK IT IS ANY MORE

MARCH 3, 2016

1 COMPLICATED TO MEMORIALIZE THAT DECISION. AND IT DOESN'T
2 PREJUDICE ANY SIDE. IT DOESN'T ADD ANY UNDUE COMPLICATION TO
3 THE MATTER.

4 BUT I THINK, GIVEN THE COMPLICATION OF THE LAW, AS
5 WE TALKED ABOUT, A CONSPIRACY TO COMMIT RICO AND SOME OF THE
6 UNDERLYING ACTS BEING CONSPIRACIES TO COMMIT AN ACT, I THINK
7 JURIES HAVE MISUNDERSTANDINGS ON FAR MORE SIMPLE ISSUES THAN
8 THIS. AND GIVEN THAT IT DOESN'T ASK THEM TO DO MUCH MORE WORK
9 BUT JUST ONLY SHOW HOW THEY CAME -- I SHOULDN'T EVEN SAY HOW
10 THEY CAME TO THEIR CONCLUSION, BUT JUST WHAT THAT CONCLUSION
11 WAS. THE COURT IS NOT REQUIRED TO ASK THAT OF THE JURY, BUT
12 THE COURT IS NOT PRECLUDED FROM DOING IT, EITHER. AND IT HAS
13 BEEN DONE IN OTHER CASES THAT I AM SURE THE COURT IS AWARE.
14 YOU ARE NOT REQUIRED, BUT YOU COULD ASK THEM TO DO THAT.

15 THE COURT: ALL RIGHT. OKAY. I HAVE THAT IN MIND
16 AS WELL.

17 LET'S MOVE TO THE 806, 807 ISSUE. I READ THE
18 GOVERNMENT'S BRIEFING AS WELL.

19 THE GOVERNMENT'S BRIEF IS FOCUSED ON 807. WHAT
20 ABOUT 806?

21 MR. ROBINSON: YOUR HONOR, WE WOULD SUBMIT ON THE
22 806 ISSUE.

23 THE COURT: AND I READ THE JOINT DEFENSE PROPOSED
24 WIRETAP RECORDING. I DIDN'T SEE ANYTHING ABOUT THE COMMENTS
25 ATTRIBUTED TO MR. GRAVES ABOUT GOING AFTER THE DEFENDANTS AND

MARCH 3, 2016

1 CHARGE.

2 THE COURT: I WILL CONSIDER THAT.

3 ON 19.1, WHICH RELATES TO THE RACKETEERING ACTS AND
4 THE DEFINITION, THERE IS NO FELONY MURDER, AND THAT'S
5 INTENTIONAL?

6 MR. LESHNER: YES.

7 THE COURT: ALL RIGHT. SO THERE IS NO REQUEST FOR A
8 FELONY MURDER INSTRUCTION.

9 MR. LESHNER: THAT IS CORRECT.

10 THE COURT: THE VERDICT FORM, I SAW THE GOVERNMENT'S
11 CORRECTIONS AS WELL, AND THOSE DO CHANGE KNOWLEDGE TO
12 AGREEMENT, AND THEN TO ADD THE TWO COUNTS WITH RESPECT TO SEX
13 TRAFFICKING, WHICH WOULD BE APPROPRIATE.

14 THE HEADING IS BIFURCATED PROCEEDINGS. AND I AM
15 TRYING TO RECALL WHETHER IN THE MARTINEZ TRIAL WE ACTUALLY
16 BIFURCATED AND HAD THE VERDICTS FIRST THEN -- IN THAT CASE
17 THERE WERE ADVERSE VERDICTS AND THEN SENT THE JURY BACK IN FOR
18 A SECOND FINDING?

19 MR. ROBINSON: I WAS TRYING TO RECALL AS WELL, YOUR
20 HONOR, BECAUSE I KNOW THAT THE ORIGINAL INSTRUCTION THAT WE
21 SUBMITTED DID NOT HAVE THAT HEADING ON IT. BUT I JUST CAN'T
22 RECALL WHETHER WE SENT THE JURY BACK FOR FURTHER DELIBERATIONS
23 UPON REACHING THAT VERDICT.

24 I WOULD ASK THAT IT ALL HAPPEN IN ONE, BECAUSE
25 OTHERWISE I WOULD BE REQUESTING FURTHER ARGUMENT WHEN WE DO

MARCH 7, 2016

1 THE BIFURCATED PROCEEDINGS, AND I THINK IT IS PREFERABLE JUST
2 TO DO IT ALL AT ONCE.

3 THE COURT: I WOULD AGREE.

4 ANY OBJECTION TO THAT?

5 (DISCUSSION OFF THE RECORD)

6 MR. RODRIGUEZ: NO OBJECTION, YOUR HONOR.

7 THE COURT: SO I'M GOING TO REDACT THE HEADING WHERE
8 IT SAYS BIFURCATED PROCEEDINGS, I WILL SIMPLY TAKE THAT OUT.
9 AND IT WILL -- THE HEADING WILL ONLY REFERENCE SPECIAL
10 FINDINGS.

11 ARE THERE ANY OTHER COMMENTS?

12 MR. BERG: YES, YOUR HONOR. WE HAD REQUESTED IN OUR
13 PROPOSED JURY INSTRUCTIONS THE 6.10 MERE PRESENCE, AND I DON'T
14 BELIEVE THE COURT INCLUDED THAT. I DO BELIEVE IT WOULD BE
15 APPROPRIATE.

16 THE COURT: THAT CONCEPT, IT SEEMED TO ME, WAS WELL
17 COVERED IN THE GENERAL CONSPIRACY INSTRUCTIONS. DO YOU
18 DISAGREE?

19 MR. BERG: COULD THE COURT POINT ME TO IT, YOUR
20 HONOR, AND I WILL TELL YOU WHETHER I DISAGREE OR AGREE.

21 THE COURT: IF YOU GO TO 19.

22 MR. BERG: YES.

23 THE COURT: THE THIRD PAGE IN THE MIDDLE, STARTING
24 WITH, ON THE OTHER HAND.

25 MR. BERG: WELL, I THINK IT IS -- THE MERE PRESENCE

MARCH 7, 2016

1 WHERE THE COURT IS GOING. A LOOKOUT IS A PARTICIPANT BECAUSE
2 THEY PLAY A ROLE, SO THAT IS THE THEORY. IT COULD BE ARGUED
3 THAT THAT PERSON ISN'T MERELY PRESENT.

4 MR. ROBINSON: MUST BE A PARTICIPANT IN SOME CONTEXT
5 OR IN SOME WAY, BECAUSE I THINK THE PHRASE, MUST BE A
6 PARTICIPANT, IN LAYMAN'S TERMS DOESN'T INCLUDE AN AIDER AND
7 ABETTOR OR SOMEONE WHO WOULD WORK AS A LOOKOUT OR SOMETHING
8 ALONG THOSE LINES.

9 MR. PIPPINS: I THINK OTHER INSTRUCTIONS, IN THEIR
10 TOTALITY, TAKE CARE OF THAT.

11 MR. ROBINSON: I AM NOT SURE WHAT INSTRUCTION WOULD
12 ADDRESS THE AIDER AND ABETTOR.

13 MR. BERG: IT INDICATES IN THE INSTRUCTION, YOUR
14 HONOR, THAT HIS PRESENCE MAY BE CONSIDERED BY THE JURY ALONG
15 WITH THE OTHER EVIDENCE IN THIS CASE. SO THE GOVERNMENT IS
16 FREE TO ARGUE THAT, BUT I SEE NO BASIS TO MODIFY THE PATTERN
17 INSTRUCTION.

18 THE COURT: ALL RIGHT. I WILL CONSIDER THAT. AND
19 IT MAY BE THAT IT IS CLEAR ENOUGH, BUT I HAVE THAT POSITION IN
20 MIND.

21 ARE THERE ANY OTHER COMMENTS ABOUT THE JURY
22 INSTRUCTIONS?

23 MR. ROBINSON: NO, YOUR HONOR.

24 MR. RODRIGUEZ: NOT ON THE INSTRUCTIONS, YOUR HONOR.

25 THE COURT: THE VERDICT FORM, COUNSEL HAS BEEN

MARCH 7, 2016

1 PROVIDED COPIES. IT NOW HAS COUNT 1 AS SPECIAL FINDINGS, AND
2 THEN IT HAS COUNTS 2 AND 3, WHICH I SIMPLY RENUMBERED FOR EASE
3 OF REFERENCE BY THE MEMBERS OF THE JURY. THOSE, OBVIOUSLY,
4 WERE COUNTS 8 AND 9 IN THE INDICTMENT.

5 ANY OBJECTION TO THE VERDICT FORM?

6 MR. BERG: NOT FROM US, YOUR HONOR.

7 MR. ROBINSON: NO, YOUR HONOR.

8 MR. RODRIGUEZ: NO, YOUR HONOR.

9 THE COURT: FOR PURPOSES OF TIME ESTIMATES, WHAT'S
10 THE GOVERNMENT'S -- DO YOU HAVE AN APPROXIMATION AS TO YOUR
11 INITIAL CLOSING?

12 MR. ROBINSON: I WOULD ESTIMATE ABOUT AN HOUR AND 45
13 MINUTES, PROBABLY NO MORE THAN TWO HOURS.

14 THE COURT: AND FOR THE DEFENDANTS?

15 MS. DOBRO: WE ALL INTEND TO CLOSE, YOUR HONOR. AND
16 I THINK OUR GOAL IS TO GO FOR ABOUT A HALF HOUR, 35 MINUTES
17 EACH.

18 THE COURT: ALL RIGHT. OKAY.

19 MS. DOBRO: PERHAPS A LITTLE LONGER.

20 MR. BERG: I THINK THAT IS ABOUT RIGHT. I'M GOING
21 TO DO MY BEST NOT TO JUST COVER THE SAME MATERIAL THAT HAS
22 ALREADY BEEN COVERED BY EVERYBODY ELSE.

23 THE COURT: RIGHT.

24 MR. RODRIGUEZ: MINE IS PROBABLY GOING TO BE THE
25 LONGEST, PROBABLY GOING TO BETWEEN 30 AND 45 MINUTES.

MARCH 7, 2016

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

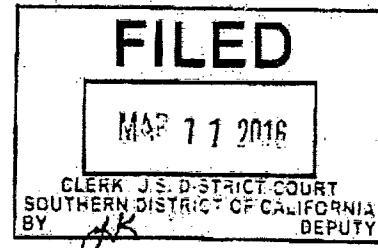
Case No.: 14-CR-1288-DMS

Plaintiff,
v.

TERRY HOLLINS,
MARCUS FOREMAN,
JERMAIN COOK,
WILBERT ROSS III,

Defendants.

VERDICT



Count One

We, the jury in the above-entitled cause, find the defendant:

TERRY HOLLINS Guilty (Not Guilty / Guilty) of participating in the RICO conspiracy alleged in the indictment.

MARCUS FOREMAN Guilty (Not Guilty / Guilty) of participating in the RICO conspiracy alleged in the indictment.

JERMAINE COOK Guilty (Not Guilty / Guilty) of participating in the RICO conspiracy alleged in the indictment.

WILBERT ROSS Guilty (Not Guilty / Guilty) of participating in the RICO conspiracy alleged in the indictment

DATED: 3/10/2016.

NUMBER OF FOREPERSON

11

SPECIAL FINDINGS

With respect to each of the defendants you have found guilty of participating in the RICO conspiracy alleged in the indictment, answer "Yes" or "No" to the following question. In order for you to answer "Yes" to the question for any given defendant, you must unanimously agree on at least one of the listed racketeering acts with respect to that defendant.

Has the Government proven beyond a reasonable doubt that the defendant's agreement to participate in the RICO conspiracy included the agreement that a coconspirator, not necessarily the defendant, would commit one or more of the following racketeering acts in furtherance of the RICO conspiracy: (1) murder; (2) conspiracy to commit murder; (3) sex trafficking of a minor; (4) sex trafficking by force, fraud or coercion.

TERRY HOLLINS

YES
(Yes / No)

MARCUS FOREMAN

YES
(Yes / N)

JERMAINE COOK

YES
(Yes / No)

WILBERT ROSS

YES
(Yes / No)

DATED: 3/11/2016

12

NUMBER OF FOREPERSON

111.

111

Count Two

We, the jury in the above-entitled cause, find the defendant:

WILBERT ROSS Guilty (Not Guilty Guilty) of sex trafficking of a minor as alleged in the indictment.

Count Three

We, the jury in the above-entitled cause, find the defendant:

WILBERT ROSS Guilty (Not Guilty / Guilty) of sex trafficking by force, fraud or coercion as alleged in the indictment.

DATED: 3/11/2016

NUMBER OF FOREPERSON

FILED

JUL 20 2016

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY MEN DEPUTYUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIAUNITED STATES OF AMERICA
v.

WILBERT ROSS III (13)

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

Case Number: 14CR1288-DMS

Michael Berg CJA

Defendant's Attorney

REGISTRATION NO. 41931298

THE DEFENDANT:

 pleaded guilty to count(s) 1, 8 and 9 of the 5th Superseding Indictment was found guilty on count(s) _____
after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

Title & Section	Nature of Offense	Count Number(s)
18 USC 1962(d)	CONSPIRACY TO CONDUCT ENTERPRISE AFFAIRS THROUGH A PATTERN OF RACKETEERING ACTIVITY	1
18 USC 1591(a), (b) and (c)	SEX TRAFFICKING OF A MINOR	8
18 USC 1591(a) and (b)	SEX TRAFFICKING BY FORCE, FRAUD OR COERCION	9

The defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

 The defendant has been found not guilty on count(s) _____ Count(s) remaining is are dismissed on the motion of the United States. Assessment: \$300.00 (\$100.00 as to each of Counts 1, 8 and 9). Fine waived Forfeiture pursuant to order filed _____, included herein.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

July 20, 2016
Date of Imposition of SentenceHON. DANA M. SABRAW
UNITED STATES DISTRICT JUDGE

DEFENDANT: WILBERT ROSS III (13)
CASE NUMBER: 14CRI1288-DMS

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of Count 1: LIFE. Count 8: TEN (10) YEARS, concurrent to Count 1. Count 9: FIFTEEN (15) YEARS, consecutive to Count 8, and concurrent to Count 1. All counts will run consecutive to any sentence in the Superior Court of California, County of San Diego, Case No. CD252867.

- Sentence imposed pursuant to Title 8 USC Section 1326(b).
 The court makes the following recommendations to the Bureau of Prisons:

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

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

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

- before _____
 as notified by the United States Marshal.
 as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

14CRI1288-DMS

App.124
ER 179

DEFENDANT: **WILBERT ROSS III (13)**
CASE NUMBER: **14CR1288-DMS**

Judgment - Page 3 of 3

RESTITUTION

The defendant shall pay restitution in the amount **\$43,803.12** unto the United States of America.

Restitution shall be paid through the Clerk, U.S. District Court, as directed in a restitution order to be filed in the future. Restitution of \$37,550.87 shall be paid to the California Victim Compensation & Government Claims Board, and \$5,252.25 shall be paid to the family of Andres Caldera.

Defendant shall be jointly and severally liable to pay restitution with co-defendants Marcus Anthony Foreman, Germaine Gerald Cook and Terry Carry Hollins.

FILED

16 JUL 27 PM 12:12

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
UNITED STATES OF AMERICA
v.

TERRY CARRY HOLLINS (9)

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 14CR1288-DMS

Lupe Rodriguez CJA

Defendant's Attorney

REGISTRATION NO. 41932298

THE DEFENDANT:

pleaded guilty to count(s) _____

was found guilty on count(s) 1 of the 5th Superseding Indictment

after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Count Number(s)</u>
18 USC 1962(d)	CONSPIRACY TO CONDUCT ENTERPRISE AFFAIRS THROUGH A PATTERN OF RACKETEERING ACTIVITY	1

The defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____

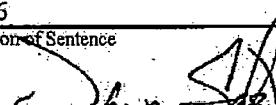
Count(s) remaining is are dismissed on the motion of the United States.

Assessment: \$100.00.

Fine waived Forfeiture pursuant to order filed _____, included herein.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

July 27, 2016
Date of Imposition of Sentence


HON. DANA M. SABRAW
UNITED STATES DISTRICT JUDGE

DEFENDANT: TERRY CARRY HOLLINS (9)

CASE NUMBER: 14CR1288-DMS

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of LIFE, to run consecutively to sentence in San Diego County Superior Court, Case No. SCD244828.

- Sentence imposed pursuant to Title 18 USC Section 1326(b),
 The court makes the following recommendations to the Bureau of Prisons:

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

- The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____
as notified by the United States Marshal.

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

- before _____
 as notified by the United States Marshal.
 as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

14CR1288-DMS

App.127
ER 182

AO 245B (CASP Rev. 08/13) Judgment in a Criminal Case

DEFENDANT: TERRY CARRY HOLLINS (9)
CASE NUMBER: 14CR1288-DMS

Judgment - Page 3 of 3

RESTITUTION

The defendant shall pay restitution in the amount \$42,803.12 unto the United States of America.

Restitution shall be paid through the Clerk, U.S. District Court, as directed in a restitution order to be filed in the future. Restitution of \$37,550.87 shall be paid to the California Victim Compensation & Government Claims Board, and \$5,252.25 shall be paid to the family of Andres Caldera.

Defendant shall be jointly and severally liable to pay restitution with co-defendants Marcus Anthony Foreman, Jermaine Gerald Cook and Wilbert Ross III.

FILED

SEP 22 2016

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY MXNUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIAUNITED STATES OF AMERICA
v.

MARCUS ANTHONY FOREMAN (12)

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

Case Number: 14CR1288-DMS

Maxine Dobro CJA

Defendant's Attorney

REGISTRATION NO. 41933298

THE DEFENDANT:

 pleaded guilty to count(s) _____ was found guilty on count(s) 1 of the 5th Superseding Indictment

after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Count Number(s)</u>
18 USC 1962(d)	CONSPIRACY TO CONDUCT ENTERPRISE AFFAIRS THROUGH A PATTERN OF RACKETEERING ACTIVITY	1

The defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

 The defendant has been found not guilty on count(s) _____ Count(s) remaining _____ is are dismissed on the motion of the United States. Assessment: \$100.00. Fine waived Forfeiture pursuant to order filed _____, included herein.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

September 22, 2016
Date of Imposition of SentenceHON. DANA M. SABRAW
UNITED STATES DISTRICT JUDGE

DEFENDANT: MARCUS ANTHONY FOREMAN (12)
CASE NUMBER: 14CR1288-DMS

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of LIFE. This sentence is to run consecutive to any sentence in the State of California Superior Court.

- Sentence imposed pursuant to Title 18 USC Section 1326(b).
 The court makes the following recommendations to the Bureau of Prisons:

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

- The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____
as notified by the United States Marshal.

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

- before _____
 as notified by the United States Marshal.
 as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

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

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MARCUS ANTHONY FOREMAN (12)
CASE NUMBER: 14CR1288-DMS

Judgment - Page 3 of 3

RESTITUTION

The defendant shall pay restitution in the amount \$42,803.12 unto the United States of America.

Restitution shall be paid through the Clerk, U.S. District Court. The Court waives interest and fees.

During the defendant's incarceration the defendant shall pay restitution through the Inmate Responsibility Program at the rate of 50% of the defendant's income, or \$25.00 per quarter, whichever is greater.

The defendant shall pay the restitution during any period of supervised release at the rate of \$250.00 per month, with the first payment due within 90 days from the defendant's release from custody or the start of his probation, whichever is later. These payment schedules do not foreclose the United States from exercising all legal actions, remedies, and process available to it to collect the restitution judgment.

Restitution is to be paid to the Clerk, United States District Court, who then is to pay the following victims:

Victim	Restitution
Maria Caldera	\$ 5,252.25
California Victim Compensation & Government Claims Board	\$37,550.87
Total Restitution	\$42,803.12

The defendant shall be jointly and severally liable to pay restitution with co-defendants Terry Carry Hollins, Jermaine Gerald Cook and Wilbert Ross III for the same losses. Until restitution is paid in full, the defendant shall notify the Clerk of the Court and the United States' Attorney's Office of any change in the defendant's mailing or residence address, no later than 30 days after the change occurs.

During any period of supervised release, the defendant shall notify the Collections Unit, United States Attorney's Office, of any interest in property obtained, directly or indirectly, including any interest obtained under any other name, or entity, including a trust, partnership, or corporation until the fine or restitution is paid in full. During the period of supervised release, the defendant shall notify the Collections Unit, United States Attorney's Office, before the defendant transfers any interest in the property owned directly or indirectly by defendant, including any interest held or owned under any other name or entity, including trusts, partnerships, and/or corporations.

FILED

SEP 23 2016

AO 245B (CASP) (Rev. 4/14) Judgment in a Criminal Case
Sheet 1CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *MKN* DEPUTYUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIAUNITED STATES OF AMERICA
v.

JERMAINE GERALD COOK (10)

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

Case Number: 14CR1288-DMS

Victor Pippins CJA

Defendant's Attorney

REGISTRATION NO. 47114298

THE DEFENDANT:

- pleaded guilty to count(s) _____
- was found guilty on count(s) 1 of the 5th Superseding Indictment
after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Count Number(s)</u>
18 USC 1962(d)	CONSPIRACY TO CONDUCT ENTERPRISE AFFAIRS THROUGH A PATTERN OF RACKETEERING ACTIVITY	1

The defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. The defendant has been found not guilty on count(s) _____ Count(s) remaining is are dismissed on the motion of the United States. Assessment: \$100.00 Fine waived Forfeiture pursuant to order filed _____, included herein.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

September 22, 2016
Date of Imposition of Sentence*Sabraw*
HON. DANA M. SABRAW
UNITED STATES DISTRICT JUDGE

DEFENDANT: JERMAINE GERALD COOK (10)
CASE NUMBER: 14CR1288-DMS

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of LIFE.

- Sentence imposed pursuant to Title 18 USC Section 1326(b).
 The court makes the following recommendations to the Bureau of Prisons:

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

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____
as notified by the United States Marshal.

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

- before _____
 as notified by the United States Marshal.
 as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

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

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

14CR1288-DMS

App.133
ER 188

DEFENDANT: JERMAINE GERALD COOK (10)
CASE NUMBER: 14CR1288-DMS

Judgment - Page 3 of 3

RESTITUTION

The defendant shall pay restitution in the amount \$42,803.12 unto the United States of America.

Restitution shall be paid through the Clerk, U.S. District Court. The Court waives interest and fees.

During the defendant's incarceration the defendant shall pay restitution through the Inmate Responsibility Program at the rate of 50% of the defendant's income, or \$25.00 per quarter, whichever is greater.

The defendant shall pay the restitution during any period of supervised release at the rate of \$250.00 per month, with the first payment due within 90 days from the defendant's release from custody or the start of his probation, whichever is later. These payment schedules do not foreclose the United States from exercising all legal actions, remedies, and process available to it to collect the restitution judgment.

Restitution is to be paid to the Clerk, United States District Court, who then is to pay the following victims:

Victim	Restitution
Maria Caldera	\$ 5,252.25
California Victim Compensation & Government Claims Board	\$37,550.87
Total Restitution	\$42,803.12

The defendant shall be jointly and severally liable to pay restitution with co-defendants Terry Carry Hollins, Marcus Anthony Foreman and Wilbert Ross III for the same losses. Until restitution is paid in full, the defendant shall notify the Clerk of the Court and the United States' Attorney's Office of any change in the defendant's mailing or residence address, no later than 30 days after the change occurs.

During any period of supervised release, the defendant shall notify the Collections Unit, United States Attorney's Office, of any interest in property obtained, directly or indirectly, including any interest obtained under any other name, or entity, including a trust, partnership, or corporation until the fine or restitution is paid in full. During the period of supervised release, the defendant shall notify the Collections Unit, United States Attorney's Office, before the defendant transfers any interest in the property owned directly or indirectly by defendant, including any interest held or owned under any other name or entity, including trusts, partnerships, and/or corporations.