APPENDIX A

RECOMMENDED FOR FULL-TEXT PUBLICATION
Pursuant to Sixth Circuit I.O.P. 32.1(b)

File Name: 19a0134p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

QUINCY DENNIS,

Petitioner-Appellant,

v.

J.A. TERRIS, Warden,

Respondent-Appellee.

No. 18-2081

Appeal from the United States District Court
for the Eastern District of Michigan at Detroit.
No. 2:17-cv-14087—Victoria A. Roberts, District Judge.

Decided and Filed: June 21, 2019

Before: ROGERS, SUTTON, and READLER, Circuit Judges.

COUNSEL

ON BRIEF: Quincy Dennis, Milan, Michigan, pro se. Shane Cralle, UNITED STATES ATTORNEY'S OFFICE, Detroit, Michigan, for Appellee.

OPINION

SUTTON, Circuit Judge. The President has the "Power to grant Reprieves and Pardons for Offences against the United States." U.S. Const. art. II, § 2, cl. 1. But does the President's exercise of that authority invariably create a new executive judgment that fully replaces the judicial judgment?

Quincy Dennis committed a string of drug offenses, leading to a mandatory life sentence in 1997. In 2017, President Obama commuted his sentence to 30 years. Dennis filed this § 2241

habeas petition, arguing that he should have faced only a 20-year mandatory sentence. The district court held that it had no authority to question the commuted sentence and dismissed the petition as moot. Because the commutation did not alter the reality that Dennis continues to serve a judicial sentence and because he could obtain a sentence of fewer than 30 years if he obtained the requested relief, the petition is not moot. Even so, the petition lacks merit, and accordingly we deny it.

In 1997, a jury convicted Dennis of three federal drug crimes: attempting to distribute cocaine base, possessing cocaine base with intent to distribute it, and possessing cocaine with intent to distribute it. Before trial, the government alerted Dennis that it might seek a sentencing enhancement. 21 U.S.C. § 851. That put Dennis on notice that, if convicted, he faced a mandatory life sentence based on two prior Ohio drug convictions.

That's what happened. After the jury found Dennis guilty, the district court sentenced him to life in prison on the cocaine base convictions and a concurrent 30-year term on the cocaine offense.

Dennis sought collateral relief from the courts on several fronts. Each failed. Then Dennis received a different form of relief. President Obama conditionally commuted Dennis's sentence to a term of 30 years. To receive this benefit, Dennis had to enroll in a residential drug abuse program and return a signed acceptance of the commutation. Dennis honored his end of the bargain.

Convinced that a lingering error marred his original sentence, Dennis filed a § 2241 habeas petition in December 2017. One of his Ohio convictions, he maintains, does not count as a felony under the recidivism enhancement. If true, he points out, he would have received a 20-year mandatory minimum sentence, not a mandatory life sentence. The district court dismissed Dennis's petition as moot on two grounds: that it had no authority to alter the commuted sentence and that Dennis now serves a commuted executive sentence, not the original judicial sentence.

At issue is the interaction of an executive branch power (to pardon individuals convicted of crimes) with a limitation on a judicial branch power (to resolve only live cases or controversies).

Begin with the Article II pardon power. The Constitution says that the President "shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment." U.S. Const. art. II, § 2, cl. 1. The Framers modeled this provision on the pardon power of the English Crown. *Schick v. Reed*, 419 U.S. 256, 260–64 (1974). That English practice thus illuminates "the operation and effect of a pardon," making the one a helpful lantern in seeing the other. *United States v. Wilson*, 32 U.S. (7 Pet.) 150, 160 (1833) (Marshall, C.J.). As an act of executive mercy, *id.*; *see* 4 William Blackstone, *Commentaries* *389–90, the pardon power includes the authority to commute sentences in whole or in part, *Schick*, 419 U.S. at 260. The President may place conditions on a pardon or commutation. *Ex parte Wells*, 59 U.S. (18 How.) 307, 314–15 (1855). The only potential limits on the President's pardon power are constitutional in nature, and even those are little defined. *Schick*, 419 U.S. at 267; *see Ohio Adult Parole Auth. v. Woodard*, 523 U.S. 272, 279–85 (1998) (opinion of Rehnquist, C.J.).

Turn to Article III, which empowers and constrains the judicial branch. It vests "[t]he judicial Power of the United States" in the Supreme Court and any inferior federal courts that Congress creates. U.S. Const. art. III, § 1. One such power is to try crimes and sentence defendants. *See Ex parte Milligan*, 71 U.S. (4 Wall.) 2, 121 (1866). What the Constitution gives, however, it sometimes takes away. Courts may resolve only "Cases" or "Controversies." U.S. Const. art. III, § 2, cl. 1. That means we need a live cause—a conflict in which we are able to give a remedy to the winner—in order to exercise jurisdiction. *Knox v. Serv. Emps. Int'l Union, Local 1000*, 567 U.S. 298, 307–08 (2012). A moot dispute is not a live dispute. *Id.*

These principles bring the problem into focus. Two questions arise. Does a presidential commutation do away with a judicial sentence, leaving the recipient bound only by an executive sentence? Or does a commutation merely limit the execution of the judicial sentence?

Generally speaking, a prisoner who receives a presidential commutation continues to be bound by a judicial sentence. *See Duehay v. Thompson*, 223 F. 305, 307–08 (9th Cir. 1915); *see*

also United States v. Buenrostro, 895 F.3d 1160, 1164–66 (9th Cir. 2018); *Hagelberger v. United States*, 445 F.2d 279, 280 (5th Cir. 1971) (per curiam). The commutation changes only how the sentence is carried out by switching out a greater punishment for a lesser one. *See Biddle v. Perovich*, 274 U.S. 480, 487 (1927); *Ex parte Wells*, 59 U.S. at 315.

"The judicial power and the executive power over sentences are readily distinguishable." *United States v. Benz*, 282 U.S. 304, 311 (1931). "To render judgment is a judicial function. To carry the judgment into effect is an executive function." *Id.* A President's commutation "abridges the enforcement of the judgment, but does not alter it qua judgment." *Id.*; *see Nixon v. United States*, 506 U.S. 224, 232 (1993). Blackstone agreed. "[F]alsifying or reversing the judgment" would "set [it] aside." 4 Blackstone, *Commentaries* *383. "The only other remaining ways of avoiding the *execution* of the judgment," he said, "are by a reprieve, or a pardon." *Id.* at *387 (emphasis added).

The existence of conditional commutations, as President Obama used in Dennis's case, also supports our jurisdiction. Say the President commuted a life sentence to 25 years but conditioned the commutation on the prisoner maintaining good behavior in prison. If, five years later, the prisoner stabbed a fellow inmate, he would violate the condition, undo the commutation, and absent more executive grace be subject once again to life imprisonment under the sentence. *See Vitale v. Hunter*, 206 F.2d 826, 829 (10th Cir. 1953). The judgment remains in place, ready to kick into full effect if the recipient violates the conditional cap.

The possibility of unconditional commutations also supports this view. Keep in mind that such actions do not require the recipient's consent. *Biddle*, 274 U.S. at 486–88. Anyone who takes the position that executive pardons or commutations necessarily eliminate the judicial sentence must account for this reality. It would mean that a mischievous chief executive could interfere with an inmate's efforts to obtain deserved relief in court. Suppose the President didn't like a Supreme Court decision that would result in some prisoners receiving lower sentences on collateral review (e.g., *Johnson v. United States*, 135 S. Ct. 2551 (2015)). Is it really the case that the President could unconditionally commute each of those prisoners' sentences by a day and thereby deny them any judicial relief from their unconstitutional sentences? We don't think so.

All of this means that Dennis may challenge his original sentence because, if he wins, the district court might sentence him to a term less than his current 30-year commuted sentence. *See United States v. Surratt*, 855 F.3d 218, 226–27 (4th Cir. 2017) (en banc) (mem.) (Wynn, J., dissenting); *cf. Madej v. Briley*, 371 F.3d 898, 899 (7th Cir. 2004) (Easterbrook, J.) (holding that a governor's commutation did not moot a state prisoner's habeas petition seeking resentencing because his new sentence could be less than his commuted sentence). The possibility that his sentence might be reduced suffices to give Dennis a concrete interest in this dispute, making it non-moot. *See Knox*, 567 U.S. at 307–08. We must go on.

In resisting this conclusion, the government invokes a concurring opinion by Judge Wilkinson. "Absent some constitutional infirmity in the commutation order," he thought, "we may not readjust or rescind what the President, in the exercise of his pardon power, has done." *Surratt*, 855 F.3d at 219 (Wilkinson, J., concurring). We agree, to an extent.

Courts may not alter a President's commutation, except perhaps if the commutation itself violates the Constitution. *Schick*, 419 U.S. at 264. So a court could not require a defendant to stay in prison for 40 years if the President commuted the sentence to 20 years. The executive branch, not the judicial branch, executes the sentence, and the President retains authority, constitutional authority, to lower it or end it or eliminate the conviction altogether. For like reasons, courts may not disregard the conditions the President places on a commutation. We thus could not excuse Dennis from signing up for the drug rehab program, a presidential condition for his commutation. When a would-be recipient accepts a conditional commutation, "he cannot complain if the law executes the choice he has made." *Ex parte Wells*, 59 U.S. at 315. Instead, the recourse for changing a commutation is to "apply to the present President or future Presidents" for more relief. *Schick*, 419 U.S. at 268.

Yet this does not mean that the altered sentence becomes an executive sentence in full, free from judicial scrutiny with respect to mistakes *the courts* may have made. The President may not issue judgments in a criminal case with respect to a private citizen. *See Ex parte Milligan*, 71 U.S. at 121–22. His role instead is to carry out the sentence of a court. *Benz*, 282 U.S. at 311.

This all squares with the Supreme Court's decision in *Schick v. Reed*, 419 U.S. 256 (1974). A court-martial convicted Schick, a master sergeant in the Army, of murder and sentenced him to death. President Eisenhower, who was required to approve the court-martial's sentence before it could be executed, 10 U.S.C. § 871(a) (1960), commuted Schick's executive-imposed sentence to life imprisonment on the condition that he never be eligible for parole. *Schick*, 419 U.S. at 258. Later, the Supreme Court held that the death penalty was unconstitutional. *Furman v. Georgia*, 408 U.S. 238, 239–40 (1972) (per curiam). That meant that, if the President hadn't conditionally commuted the sentence (and Schick had not already been executed), Schick would have been entitled to a new sentence of life imprisonment with the possibility of parole. *Schick*, 419 U.S. at 258–59. Schick filed suit to undo the no-parole condition. The Supreme Court said it was powerless to change that unquestionably constitutional condition. Schick's quarrel (and therefore his avenue for potential recourse) was with the President. *Id.* at 266–67.

That case differs from this one. It dealt with a court-martial's sentence in a military case that required the President's approval. It dealt with an executive-imposed sentence in the first instance because that is how courts-martial work. *See Ortiz v. United States*, 138 S. Ct. 2165, 2174–77 (2018); *id.* at 2198–99 (Alito, J., dissenting). And Dennis, unlike Schick, does not challenge a condition that the President placed on his commutation. He instead challenges the underlying sentence itself, alleging that the courts dropped the ball. One other thing: The Court denied Schick's petition on the merits rather than dismissing it for lack of jurisdiction.

The government places considerable weight on the notion that a commutation is a "substituted punishment." *Biddle*, 274 U.S. at 487. Practically speaking, that is true. Dennis now will serve at most 30 years in prison, not life. But for now he still serves a judicial life sentence, the *execution* of which the President's act of grace has softened. The original judicial sentence remains intact. *Duehay*, 223 F. at 307–08; *see Benz*, 282 U.S. at 311. And we have authority, just as we do in any other criminal case, to entertain a collateral attack on that sentence—and even act on it if it lowers the sentence below 30 years or (in another case) eliminates the conviction altogether.

But no, the government persists, Dennis agreed to the conditional commutation. Making an argument with hints of waiver, it asserts that Dennis cannot now try to undo or undermine the commutation. True again. But true again just in part. We could not change the commutation to a 25-year cap. Nor could we alter the drug program condition. But give Dennis credit. He does not challenge the commutation order. He challenges the underlying sentence. In accepting his commutation, Dennis did not give up any rights to attack his sentence collaterally. He met the two conditions the President imposed. And the President did not add any others, such as a requirement that he abandon further attacks on the original conviction or sentence.

We recognize that this decision is in some tension with a recent Fourth Circuit en banc order dismissing a habeas petition as moot after a presidential commutation. *Surratt*, 855 F.3d at 219. But "some tension" is the operative phrase. It's not easy to discern why the Fourth Circuit did what it did. The court's order is two sentences long and provides no analysis. There is one reasoned opinion going one way and one reasoned opinion going the other way. No other members of the court joined either opinion.

All of this is not to say that a presidential pardon or commutation might not moot some cases. *See, e.g.*, *United States v. Schaffer*, 240 F.3d 35, 37–38 (D.C. Cir. 2001). That may happen sometimes: say a sentencing commutation that releases an individual challenging only his sentence. Just not this time.

The merits of Dennis's petition contain little drama. He argues that he is entitled to relief under § 2241 because one of his state convictions does not qualify as a "felony drug offense." 21 U.S.C. § 841(b)(1)(A). Even assuming Dennis may seek relief under § 2241 for this kind of problem, we disagree.

At the time of Dennis's federal conviction, § 841(b)(1)(A) required life imprisonment for anyone who violated that subsection "after two or more prior convictions for a felony drug offense have become final." 21 U.S.C. § 841(b)(1)(A) (1997). Then as now, the law defined a "felony drug offense" as "an offense that is punishable by imprisonment for more than one year" under any state or federal drug law. *Id.* § 802(44); *see Burgess v. United States*, 553 U.S. 124, 126–27 (2008). Ohio sentenced Dennis to more than one year of imprisonment for both of his

1995 drug convictions, and both qualify as felony drug offenses for purposes of the sentencing enhancement, *Burgess*, 553 U.S. at 126–27.

Dennis insists that one of his convictions was for "simple possession," making it the equivalent of a federal misdemeanor. R. 1 at 17. But labels, like titles, often are overrated. His prior conviction was for a drug crime, and Ohio law allowed more than a year of punishment for that crime. *See United States v. Lockett*, 359 F. App'x 598, 606 (6th Cir. 2009). That's all that matters.

Dennis adds that § 802(44) suffers from a due process problem: vagueness. Not so, as many courts have already held. *See, e.g.*, *United States v. Calhoun*, 106 F.3d 397 (5th Cir. 1997) (per curiam) (unpublished); *United States v. Mincoff*, 574 F.3d 1186, 1201 (9th Cir. 2009). The statute provides sufficient notice of the conduct triggering the enhancement: any drug conviction punishable for more than a year. That creates a neat, bright line in contrast to the residual clause of the career offender statute. *See Johnson*, 135 S. Ct. at 2563. The residual clause called for courts to measure whether the potential risk of harm involved in committing a crime hit an undefined threshold. *Id.* at 2557–60. This statute sets us on no such endeavor, not even remotely, here.

We deny Dennis's petition on the merits.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 18-2081

QUINCY DENNIS,

Petitioner - Appellant,

v.

J.A. TERRIS, Warden,

Respondent - Appellee.

FILED
Jun 21, 2019
DEBORAH S. HUNT, Clerk

Before: ROGERS, SUTTON, and READLER, Circuit Judges.

JUDGMENT

On Appeal from the United States District Court
for the Eastern District of Michigan at Detroit.

THIS CAUSE was heard on the record from the district court and was submitted on the briefs of counsel and Quincy Dennis, pro se.

IN CONSIDERATION THEREOF, it is ORDERED that the Quincy Dennis's petition for a writ of habeas corpus is DENIED on the merits.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

APPENDIX B

QUINCY DENNIS, Petitioner, v. J.A. TERRIS, Respondent.
UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION
2018 U.S. Dist. LEXIS 134251
Case No. 2:17-cv-14087
August 9, 2018, Decided
August 9, 2018, Filed

Editorial Information: Prior History

United States v. Dennis, 178 F.3d 1297, 1999 U.S. App. LEXIS 19204 (6th Cir. Ohio, Apr. 7, 1999)

Counsel {2018 U.S. Dist. LEXIS 1}Quincy Dennis, Petitioner, Pro se, MILAN, MI.

For J.A. Terris, Respondent: Mark Chasteen, U.S. Attorney's Office, Detroit, MI.

Judges: Honorable Victoria A. Roberts, United States District Judge.

Opinion

Opinion by: Victoria A. Roberts

Opinion

OPINION AND ORDER DISMISSING WITHOUT PREJUDICE PETITION FOR A WRIT OF HABEAS CORPUS

Federal prisoner **Quincy Dennis** ("Petitioner"), currently confined at the Federal Correctional Institution in Milan, Michigan, filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner was convicted in the United States District Court for the Southern District of Ohio of possession with intent to distribute in excess of 50 grams of cocaine base, attempting to do the same, 21 U.S.C. § 841(a)(1), (b)(1)(A)(iii), and § 846, and possession with intent to distribute in excess of 500 grams of cocaine. 21 U.S.C. § 841(a)(1), and (b)(1)(B)(ii). Dkt. 1, Page ID 63-64. Because Petitioner had two prior Ohio convictions for felony drug offenses, the district court imposed a mandatory life sentence on the first two counts, and a mandatory minimum sentence of 30 years' imprisonment on count three. Id. at 53, 56, 59-62, 64-66.

Petitioner's conviction was affirmed on direct review. *United States v. Dennis*, 178 F.3d 1297 (6th Cir. 1999) (unpublished).

President Barack Obama commuted Petitioner's sentence to a total term of 360 months' imprisonment on January 17,**{2018 U.S. Dist. LEXIS 2}** 2017. Dkt. 5, Exhibit 3.

I. Standard of Review

The Court undertakes preliminary review of the petition to determine whether "it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court." Rule 4, Rules Governing § 2254 Cases; see also 28 U.S.C. § 2243; *Perez v. Hemingway*, 157 F. Supp. 2d 790, 796 (E.D. Mich. 2001) (discussing authority of federal courts to

summarily dismiss § 2241 petitions). If the Court determines that the petitioner is not entitled to relief, the Court must summarily dismiss the petition. See *Allen v. Perini*, 424 F.2d 134, 141 (6th Cir. 1970). After undertaking such review, the Court concludes that the petition must be dismissed.

II. Discussion

Petitioner raises three claims in his petition, all challenging his original sentence: (1) one of Petitioner's prior Ohio narcotic convictions should not have counted as a felony drug offense for sentence enhancement purposes, (2) the term "felony drug offense" in 21 U.S.C. § 802(44) is unconstitutionally vague, and (3) Petitioner's prior Ohio conviction matches the federal misdemeanor offense of simple possession. Petitioner has also filed a motion to amend his petition to add a fourth claim: (4) Petitioner is actually innocent of being a chapter four career offender.

The petition must be dismissed because all of Petitioner's**{2018 U.S. Dist. LEXIS 3}** claims attack his original sentences which were commuted by the President. This Court has no jurisdiction to consider a collateral attack on a sentence imposed by executive order. Article II, § 2 of the United States Constitution provides that the President "shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment." The Supreme Court has interpreted the "broad power" conferred by the Constitution "to allow plenary authority in the President to 'forgive' the convicted person in part or entirely, to reduce a penalty in terms of a specified number of years, or to alter it with conditions which are in themselves constitutionally unobjectionable." *Schick v. Reed*, 419 U.S. 256, 266, 95 S. Ct. 379, 42 L. Ed. 2d 430 (1974). The *Schick* Court held that "the pardoning power is an enumerated power of the Constitution and that its limitations, if any, must be found in the Constitution itself." *Id.* Therefore, this Court has no jurisdiction to consider the propriety of the 360 month sentence set by the President.

In any event, Petitioner's challenge to his original life sentence is now moot because he is no longer serving that sentence. Any opinion rendered by this Court as to the validity of the original sentence would be nothing more than an advisory opinion.**{2018 U.S. Dist. LEXIS 4}** Article III, § 2 limits the jurisdiction of a federal court to live "Cases" and "Controversies." "[C]ases that do not involve 'actual, ongoing controversies' are moot and must be dismissed for lack of jurisdiction." *Federation of Advertising Industry Representatives v. Chicago*, 326 F.3d 924, 929 (7th Cir. 2014) (en banc) (holding presidential commutation rendered an inmate's § 2241 application moot).

III. Conclusion

Accordingly, Petitioner's motion to for leave to file amended petition [Dkt. 7] is **GRANTED**.

The petition for writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE**.

Finally, the Court notes that a Certificate of Appealability is not needed to appeal the dismissal of a habeas petition filed pursuant to 28 U.S.C. § 2241. *Witham v. United States*, 355 F.3d 501, 504 (6th Cir. 2004).

IT IS SO ORDERED.

/s/ Victoria A. Roberts

Honorable Victoria A. Roberts

United States District Judge

Dated: 8/9/18

APPENDIX C

three counts are grouped together to form a single group because the offense level in each case is determined on the basis of the quantity of the substances involved, in accordance with U.S.S.G. § 3D1.2(d).

16. **Base Offense Level:** The guideline for a 21 U.S.C. § 841 offense involving the distribution of drugs including attempts and conspiracies is found at U.S.S.G. § 2D1.1. The base offense level is found in the Drug Quantity Table at U.S.S.G. § 2D1.1 (a)(3)(c).

17. Dennis was involved in the possession and distribution of (the equivalent of) 10,113.982 kilograms of marijuana. According to U.S.S.G. § 2D1.1(c)(2), possession of at least 10,000 kilograms, but less than 30,000 kilograms of marijuana establish a base offense level of 36. 36

18. **Specific Offense Characteristics:** As noted at the time of Dennis' arrest, a loaded, cocked 9 mm. pistol was found on the seat of his car. Pursuant to 2D1.1(b), two levels are added if a dangerous weapon was possessed. 2

19. **Victim Related Adjustment:** None. 0

20. **Adjustment for Role in the Offense:** The defendant's role can be described as neither aggravating nor mitigating. Thus, there is no enhancement under this section. 0

21. **Adjustment for Obstruction of Justice:** None. 0

22. **Adjusted Offense Level (Subtotal):** 38

23. **Adjustment for Acceptance of Responsibility:** The defendant did not make a statement regarding his involvement in the instant offense. He was found guilty following a jury trial. It appears he does not accept responsibility for his actions in these offenses. 0

24. **Total Offense Level:** 38

25. **Chapter Four Enhancements:** U.S.S.G. § 4B1.1 states that a defendant is a career offender if the offender is at least 18 years old at the age of the instant offense, the instant offense is a felony that is a crime of violence or a controlled substance offense; and, the offender has at least two prior felony convictions of either a crime of violence or a controlled substance offense.

26. As it will be shown in Part B, the defendant's criminal history, Dennis was convicted in the Hamilton County Court of Common Pleas, to wit case number B950617, sentence imposed March 8, 1995, on the charge of Aggravated Trafficking, in violation of Ohio Revised Code 2925-03(A)(2) and case number B948266, sentence imposed on March 8, 1995, on the charge of Aggravated Trafficking in violation of 2925(a)(4) Ohio Revised Code. Each of the aforementioned Hamilton County Court of Common Pleas convictions are separated by intervening arrests. Since the defendant is over the age of 18, and the current offense involved the distribution of cocaine base and cocaine, the defendant is considered a career offender.

27. Since the offense statutory maximum sentence for a career offender from the Table at U.S.S.G. § 4B1.1(A) is life, his total offense level is increased to 37 and his Criminal History Category is automatically a Category VI.

28. However, as the offense level for a career offender from the table at U.S.S.G. § 4B1.1 is less than the offense level applicable to this case, the total offense level as calculated above remains the same.

PART B. THE DEFENDANT'S CRIMINAL HISTORY

Juvenile Adjudications

	Date of Arrest	Conviction/Court	Date Sentence Imposed/Dispo.	Guideline/ Points	
29.	02-06-86 (age 13)	Theft; Hamilton County Juvenile Court, Cincinnati, Ohio. Docket No. 86-001339.	04-09-86: Suspended commitment to the Department of Youth Services, Probation.	4A1.2(e)(4)	0

The defendant was represented by counsel. Case involved a theft at Revco Drug Store. Probation terminated March 18, 1988.

30.	02-06-87 (age 14)	Theft; Hamilton County Juvenile Court, Cincinnati, Ohio. Docket No. 87-001402.	04-10-87: Suspended commitment to the Department of Youth Services, Probation.	4A1.2(e)(4)	0

The defendant was represented by counsel. Case involved a theft at now defunct Swifton Commons Elder Beerman Department Store. Dennis was referred to Hillcrest School November 25, 1988. Probation terminated April 10, 1989.

31.	06-12-87 (age 14)	Auto Theft; Hamilton County Juvenile Court, Cincinnati, Ohio. Docket No. 87-006272.	08-26-87: Temporary commitment to Hillcrest School.	4A1.2(e)(4)	0

The defendant was represented by counsel. No details were available. He was terminated from temporary commitment to Hillcrest on March 31, 1989.