

**EXHIBIT A**

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. RAYMOND L. ROGERS,  
Defendant-Appellant.

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT  
520 Fed. Appx. 727; 2013 U.S. App. LEXIS 6954

No. 12-3125  
April 5, 2013, Filed

**Notice:**

**PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING  
THE CITATION TO UNPUBLISHED OPINIONS.**

**Editorial Information: Subsequent History**

Post-conviction relief denied at, Summary judgment denied by, Certificate of appealability denied United States v. Rogers, 2014 U.S. Dist. LEXIS 169984 (D. Kan., Dec. 9, 2014) Motion denied by United States v. Rogers, 2015 U.S. Dist. LEXIS 122967 (D. Kan., Sept. 14, 2015) Motion denied by, Certificate of appealability denied United States v. Rogers, 2015 U.S. Dist. LEXIS 171137 (D. Kan., Dec. 23, 2015)

**Editorial Information: Prior History**

(D.C. No. 6:10-CR-10186-JTM-1). (D. Kan.).

**Disposition:**

AFFIRMED.

**Counsel**

For UNITED STATES OF AMERICA, Plaintiff - Appellee: James A. Brown, Office of the United States Attorney, District of Kansas, Topeka, KS.

For RAYMOND L. ROGERS, Defendant - Appellant: Sean C. McEnulty, McEnulty Law Firm, P.A., Wichita, KS.

**Judges:** Before HARTZ, BALDOCK, and GORSUCH, Circuit Judges.

**CASE SUMMARY**

**PROCEDURAL POSTURE:** A jury convicted defendant of robbing a federally-insured bank, brandishing a firearm during the robbery, and possessing a firearm after a felony conviction. The United States District Court for the District of Kansas sentenced defendant to 234 months imprisonment. Defendant appealed, challenging both his convictions and sentence. District court properly found the evidence of the actual robbery supported application of the two-point enhancement for physical restraint because defendant and his accomplices threatened the branch manager and the teller with handguns to facilitate the crime.

**OVERVIEW:** District court properly found the evidence of the actual robbery supported application of the two-point enhancement for physical restraint because defendant and his accomplices threatened the branch manager and the teller with handguns to facilitate the crime. Further, the enhancement was appropriate regardless of which of the three roles defendant played in the robbery because defendant was accountable at sentencing for all acts and omissions committed, aided, abetted, counseled, commanded, induced, procured, or willfully caused by the defendant. Finally, given the overwhelming

evidence of his guilt, defendant's roundabout attempt to undermine the jury's verdict based on the fact that he wore a mask during the robbery to escape eyewitness identification was hardly mitigating evidence appropriate for allocution, and defendant failed to provide any objective basis to suggest the district court would have granted a lower sentence absent its obvious frustration with defendant's point (at the very least, a miscarriage of justice amounting to plain error could not be said to have occurred).

**OUTCOME:** The judgment of the district court was affirmed.

#### LexisNexis Headnotes

**Criminal Law & Procedure > Trials > Motions for Acquittal**

**Criminal Law & Procedure > Appeals > Standards of Review > De Novo Review > Sufficiency of Evidence to Convict**

An appellate court's review of the denial of a motion for judgment of acquittal pursuant to Fed. R. Crim. P. 29 is de novo. Viewing the evidence in the light most favorable to the Government, appellate courts ask whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. In so doing, appellate courts do not weigh evidence or credibility; appellate courts ask only whether the Government's evidence, credited as true, suffices to establish the elements of the crime.

U.S. Sentencing Guidelines Manual § 2B3.1(b)(4)(B) directs the court to increase a defendant's base offense level by two points if any person was physically restrained to facilitate the commission of the offense.

**Criminal Law & Procedure > Sentencing > Adjustments**  
**Evidence > Procedural Considerations > Burdens of Proof > Preponderance of Evidence**

When determining the propriety of a sentence enhancement, appellate courts review the district court's factual findings for clear error and legal conclusions de novo. The Government bears the burden of establishing facts to support an enhancement by a preponderance of the evidence.

The enhancement for physical restraint is applicable when a defendant uses force, including force by gunpoint, to impede others from interfering with commission of the offense.

**Criminal Law & Procedure > Sentencing > Adjustments**

U.S. Sentencing Guidelines Manual § 1B1.3(a)(1)(A) explains that a defendant is accountable at sentencing for all acts and omissions committed, aided, abetted, counseled, commanded, induced, procured, or willfully caused by the defendant.

**Criminal Law & Procedure > Sentencing > Guidelines**

Under U.S. Sentencing Guidelines Manual § 1B1.3(a)(1)(B), a defendant is responsible for all reasonably foreseeable acts and omissions of others in furtherance of the jointly undertaken criminal activity, that occurred during the commission of the offense of conviction.

**Criminal Law & Procedure > Sentencing > Imposition > Allocution**

**Criminal Law & Procedure > Appeals > Standards of Review > Plain Error > Burdens of Proof**

10CASES

of the evidence. See United States v. Flonny, 630 F.3d 1280, 1285-86 (10th Cir. 2011).

The enhancement for physical restraint is applicable when a defendant uses force, including force by gun point, to impede others from interfering with commission of the offense. See Miera 539 F.3d at 1234. Again, we need not tarry. In this case, the district court properly found the evidence of the actual robbery supported application of the two-point enhancement because Defendant and his accomplices threatened the branch manager and the teller with handguns to facilitate the crime. 2

Lastly, Defendant argues the district court denied him his right to allocution. Because the parties agree Defendant did not object in the district court, we review only for plain error pursuant to Fed. R. Crim. P. 52(b). See United States v. Mendoza-Lopez, 669 F.3d 1148, 1150-51 (10th Cir. 2012).

Before imposing sentence, the court "must . . . address the defendant personally in order to permit the defendant to speak or present any information to mitigate the sentence." Fed. R. Crim. P. 32(i)(4)(A)(ii). "[A] defendant's right of allocution is violated if a district court indicates it is unwilling to listen to the statements or information a defendant wishes to offer in *mitigation* of his sentence." Mendoza-Lopez, 669 F.3d at 1151 (emphasis added).

The district court announced its proposed sentence and then asked Defendant "is there anything that you would like to say on your own behalf?" Defendant responded:

Your Honor, . . . I've been convicted of these crimes and, you know, I apologize for . . . what's been done that's got us here in court today, but I don't think that a high end of a sentence like that is appropriate for me at this age that I am and, you know, given the fact that I got three kids and a wife, I mean, a low end would be justifiable for me, if you ask my consideration about anything. I mean, I didn't plan on getting 230 some months, that's like a lot of time to a person. But I guess it's really not too much I can say within the matter. When Defendant had concluded, the court thanked him and then explained in detail why its proposed sentence was the appropriate sentence. Defendant interjected and the following exchange took place:

THE DEFENDANT: Can I ask you a question, Your Honor?

THE COURT: Sure.

THE DEFENDANT: I mean, no one really ever said that I was exactly robbed the bank or anything, but-

THE COURT: Mr. Rogers, if you are trying to tell me now-

THE DEFENDANT; No, I'm not saying-

THE COURT: No, no, what you are trying to tell me now is that nobody {520 Fed. Appx. 731} said that you were one of the people in the bank. Well, the fact is they did say that. There was testimony at your trial about that, and a jury found even as an aider and abetter that you are every bit as responsible as a principal if you weren't a principal. And let me tell you something else, Mr. Rogers. If you try to excuse or diminish in any way, again, in hearing your involvement, your role in this, I'm going to look for a way to enhance your sentence even further. Do you understand that?

THE DEFENDANT: Yes sir.

THE COURT: All right. Were you about to tell me that you were not as important a part of this as the other people? Is that what you want to tell me?

THE DEFENDANT: No, I was just trying to say that I didn't get a straight testimony of anybody pointing me out that said I did anything, that's all.

THE COURT: The jury found beyond a reasonable doubt that you were a bank robber.

THE DEFENDANT: I understand that.

THE COURT: And that's all we need to know. That's all we need to know.

Defendant says the foregoing exchange impeded his allocution. We think not. First, after apparently completing his allocution, Defendant decided he wanted to point out to the district court that no direct evidence identified him as one of the three robbers. And he did so. As the foregoing exchange indicates, the district court eventually heard Defendant out. Second, given the overwhelming evidence of his guilt, Defendant's roundabout attempt to undermine the jury's verdict based on the fact he wore a mask during the robbery to escape eyewitness identification is hardly mitigating evidence appropriate for allocution. Third, Defendant fails to provide us any objective basis to suggest the district court would have granted a lower sentence absent its obvious frustration with Defendant's point. See Mendoza-Lopez, 669 F.3d at 1154. At the very least, a miscarriage of justice amounting to plain error cannot be said to have occurred.

AFFIRMED.

Entered for the Court,

Bobby R. Baldock

United States Circuit Judge

**Footnotes**

This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

1

Notably, Defendant does not challenge his brandishing a firearm and felon in possession convictions apart from his bank robbery conviction. Because Defendant's robbery conviction stands, so do his other two convictions.

2

The § 2B3.1(b)(4)(B) enhancement was appropriate regardless of which of the three roles Defendant played in the robbery. Guideline § 1B1.3(a)(1)(A) explains that a defendant is accountable at sentencing for "all acts and omissions committed, *aided, abetted, counseled, commanded, induced, procured, or willfully caused by the defendant.*" (emphasis added). Each count of the indictment charged Defendant under 18 U.S.C. § 2, the aiding and abetting statute, as well as the substantive statute. Additionally, under § 1B1.3(a)(1)(B), a defendant is responsible for "all reasonably foreseeable acts and omissions of others in furtherance of the jointly undertaken criminal activity, that occurred during the commission of the offense of conviction."

**EXHIBIT B**

CLOSED,APPEAL

**U.S. District Court**  
**DISTRICT OF KANSAS (Wichita)**  
**CRIMINAL DOCKET FOR CASE #: 6:10-cr-10186-JWB-1**

Case title: USA v. Rogers et al

Related Cases: 6:13-cv-01448-JTM  
6:18-cv-01322-JWB  
6:19-cv-01321-JWB

Magistrate judge case number: 6:10-mj-06187-KGG

Date Filed: 12/07/2010

Date Terminated: 04/17/2012

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Assigned to: District Judge John  
W. Broomes

Appeals court case numbers:  
12-3125 10CCA, 15-3013  
10CCA, 16-3055 10CCA,  
19-3012 10CCA

**Defendant (1)**

**Raymond L. Rogers**  
20787-031  
**TERMINATED: 04/17/2012**

represented by **Raymond L. Rogers**  
20787-031  
FORREST CITY - FCI - MEDIUM  
Federal Correctional Institution  
Inmate Mail/Parcels  
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*Bar Status:*

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**TERMINATED: 01/18/2011**  
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*Bar Status: Inactive*

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**LEAD ATTORNEY**  
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*Designation: CJA Appointment*  
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*Bar Status: Active*

**Pending Counts**

18:2113(a) – Bank robbery by force or violence and 18:2 – Aiding and abetting (INDICTMENT 12/07/2010) (1)

18:924(c)(1)(A) – Possessing and brandishing a firearm in furtherance of a crime of violence and 18:2 – Aiding and abetting (INDICTMENT 12/07/2010) (2)

18:922(g)(1) and 924(a)(2) – Felon in possession of a firearm and 18:2 – Aiding and abetting (INDICTMENT 12/07/2010) (3)

**Disposition**

234 Months Imprisonment (Count 1: 150 months, Count 2: 84 months to run consecutive to counts 1 & 3, Count 3: 120 months to run concurrent to counts 1 & 2); 5 Years Supervised Release (Counts 1 & 3: 3 years each count, to run concurrent to each other, Count 2: 5 years to run concurrent to counts 1 & 3); \$300 Assessment

234 Months Imprisonment (Count 1: 150 months, Count 2: 84 months to run consecutive to counts 1 & 3, Count 3: 120 months to run concurrent to counts 1 & 2); 5 Years Supervised Release (Counts 1 & 3: 3 years each count, to run concurrent to each other, Count 2: 5 years to run concurrent to counts 1 & 3); \$300 Assessment

234 Months Imprisonment (Count 1: 150 months, Count 2: 84 months to run consecutive to counts 1 & 3, Count 3: 120 months to run concurrent to counts 1 & 2); 5 Years Supervised Release (Counts 1 & 3: 3 years each count, to run concurrent to each other, Count 2: 5 years to run concurrent to counts 1 & 3); \$300 Assessment

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

18:2113(a) – Bank robbery and 18:2 – Aiding and abetting (SUPERSEDING INDICTMENT 06/21/2011) (1s)

**Disposition**

Dismissed

18:924(c)(1)(A) – Possession of firearm in furtherance of a crime of violence and 18:2 – Aiding and abetting (SUPERSEDING INDICTMENT 06/21/2011) (2s)	Dismissed
18:922(g)(1) and 924(a)(2) – Felon in possession of a firearm and 18:2 – Aiding and abetting (SUPERSEDING INDICTMENT 06/21/2011) (3s)	Dismissed
18:2113(a) – Bank robbery and 18:2 – Aiding and abetting (SUPERSEDING INDICTMENT 06/21/2011) (4s)	Dismissed
18:924(c)(1)(A) – Possession of a firearm in furtherance of a crime of violence and 18:2 – Aiding and abetting (SUPERSEDING INDICTMENT 06/21/2011) (5s)	Dismissed
18:922(g)(1) and 924(a)(2) – Felon in possession of a firearm and 18:2 – Aiding and abetting (SUPERSEDING INDICTMENT 06/21/2011) (6s)	Dismissed

Highest Offense Level  
(Terminated)

Felony

Complaints

18:2113(a) – Bank robbery;  
18:924(c)(1)(A) – Possession and brandishing a firearm in furtherance of a crime of violence, and 18:2 – Aiding and abetting.

Disposition

Plaintiff

USA

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Date Filed	#	Page	Docket Text
12/03/2010	<u>1</u>		COMPLAINT as to Raymond L. Rogers (1), David L. Hollis, III (2), Shelan D. Peters (3). (adw) [6:10-mj-06187-KGG] (Entered: 12/03/2010)
12/06/2010			ARREST of Raymond L. Rogers. (alm) [6:10-mj-06187-KGG] (Entered: 12/06/2010)
12/06/2010	<u>3</u>		MINUTE ENTRY for proceedings held before Magistrate Judge Kenneth G. Gale: RULE 5/INITIAL APPEARANCE as to Raymond L. Rogers held on 12/6/2010. Detention Hearing set for 12/13/2010 at 01:30 PM in Courtroom 406 (KGG) before Magistrate Judge Kenneth G. Gale. Preliminary Hearing set for 12/20/2010 at 09:00 AM in Courtroom 406 (KGG) before Magistrate Judge Kenneth G. Gale. (Tape #1:31-1:40.) (alm) [6:10-mj-06187-KGG] (Entered: 12/06/2010)
12/06/2010	<u>4</u>		CJA 23 FINANCIAL AFFIDAVIT by Raymond L. Rogers. (alm) [6:10-mj-06187-KGG] (Entered: 12/06/2010)
12/06/2010	<u>5</u>		ORDER OF TEMPORARY DETENTION as to Raymond L. Rogers. Signed by Magistrate Judge Kenneth G. Gale on 12/6/10. (alm) [6:10-mj-06187-KGG] (Entered: 12/06/2010)
12/06/2010	<u>6</u>		CJA 20 as to Raymond L. Rogers: Appointment of Attorney Jeffrey L. Griffith. Signed by Magistrate Judge Kenneth G. Gale on 12/6/2010. (alm) [6:10-mj-06187-KGG] (Entered: 12/06/2010)
12/07/2010	<u>9</u>		ENTRY OF APPEARANCE: by attorney Jeff L. Griffith appearing for Raymond L. Rogers (Griffith, Jeff) [6:10-mj-06187-KGG] (Entered: 12/07/2010)
12/07/2010	<u>10</u>		Arrest WARRANT returned executed on 12/6/2010 as to Raymond L. Rogers. (adw) [6:10-mj-06187-KGG] (Entered: 12/08/2010)
12/07/2010	<u>12</u>		INDICTMENT as to Raymond L. Rogers (1) count(s) 1, 2, 3, David L. Hollis, III (2) count(s) 1, 2, 3, Shelan D. Peters (3) count(s) 1, 2, 3. (aa) (Entered: 12/08/2010)
12/07/2010	<u>13</u>		NOTICE by USA as to Raymond L. Rogers, David L. Hollis, III, Shelan D. Peters. (aa) (Entered: 12/08/2010)
12/13/2010	<u>21</u>		MINUTE ENTRY for proceedings held before Magistrate Judge Kenneth G. Gale: ARRAIGNMENT as to Raymond L. Rogers (1) to Counts 1, 2, 3 of Indictment held on 12/13/2010. DETENTION HEARING as to Raymond L. Rogers held on 12/13/2010. Defendant's next appearance per scheduling order before Judge Marten. (Tape #1:46-1:49.) (adw) (Entered: 12/14/2010)
12/13/2010	<u>22</u>		WAIVER OF DETENTION HEARING by Raymond L. Rogers. (adw) (Entered: 12/14/2010)
12/14/2010	<u>24</u>		GENERAL ORDER OF DISCOVERY & SCHEDULING as to Raymond L. Rogers, David L. Hollis, III, and Shelan D. Peters: Jury Trial set for 2/15/2011

		at 9:00 AM in Courtroom 238 before District Judge J. Thomas Marten. Status Conference set for 2/3/2011 at 2:30 PM in Courtroom 238 before District Judge J. Thomas Marten. Signed by District Judge J. Thomas Marten on 12/14/10. (mss) (Entered: 12/14/2010)
01/13/2011	<u>29</u>	MOTION to Withdraw Jeff Griffith as Attorney by Raymond L. Rogers. (Griffith, Jeff) (Entered: 01/13/2011)
01/18/2011	<u>30</u>	CJA 20 as to Raymond L. Rogers: Appointment of Attorney Sean McEnulty. Signed by Magistrate Judge Kenneth G. Gale on 1/14/2011. (alm) (Entered: 01/18/2011)
01/18/2011	<u>31</u>	ORDER granting <u>29</u> Jeff Griffith's Motion to Withdraw as Attorney for Raymond L. Rogers (1). Signed by District Judge J. Thomas Marten on 1/18/2011. (mss) (Entered: 01/18/2011)
01/21/2011	<u>32</u>	MOTION for order Granting Authority to Consume Physical Evidence in Furtherance of the Investigation by USA as to Raymond L. Rogers, David L. Hollis, III, Shelan D. Peters. (Smith, Aaron) (Entered: 01/21/2011)
01/24/2011	<u>33</u>	NOTICE OF HEARING re: <u>32</u> MOTION for order Granting Authority to Consume Physical Evidence in Furtherance of the Investigation: Responses shall be filed no later than February 4, 2011. A hearing is set for 2/7/11 at 1:30 p.m. in Courtroom 238 before District Judge J. Thomas Marten. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 01/24/2011)
01/27/2011	<u>35</u>	DEMAND FOR NOTICE OF ALIBI DEFENSE by USA as to Raymond L. Rogers, David L. Hollis, III, Shelan D. Peters (Smith, Aaron) (Entered: 01/27/2011)
02/03/2011	<u>38</u>	NOTICE OF CANCELLED HEARING: The status conference set on February 3, 2011, at 2:30 p.m. as to Defendants Raymond L. Rogers and David L. Hollis, III is cancelled. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 02/03/2011)
02/07/2011	<u>39</u>	MINUTE ENTRY for proceedings held before District Judge J. Thomas Marten: MOTION HEARING as to Raymond L. Rogers, David L. Hollis, III, and Shelan D. Peters held on 2/7/2011. Counsel for defendant Peters was present. Defendant Peters was not present. Order to follow. (Court Reporter Jana Hoelscher.) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 02/07/2011)
02/08/2011	<u>40</u>	ORDER granting <u>32</u> Motion for Order as to Raymond L. Rogers (1) and David L. Hollis III (2). Signed by District Judge J. Thomas Marten on 2/7/2011. (alm) (Entered: 02/08/2011)
02/08/2011	<u>41</u>	ORDER FOR CONTINUANCE granting <u>37</u> Motion to Continue as to Raymond L. Rogers (1) and David L. Hollis III (2). Motions due by 3/11/11. Jury Trial set for 4/19/2011 at 09:00 AM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. Status Conference set for 4/6/2011 at 02:30 PM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. Signed by District Judge J. Thomas Marten on 2/8/2011. (alm) (Entered: 02/08/2011)
03/24/2011	<u>44</u>	NOTICE OF HEARING as to Defendants Raymond L. Rogers and David L. Hollis, III: Status conference RE-SET for Monday, April 11, 2011, at 2:00

			p.m. This is a rescheduling of the April 6, 2011 hearing. The defendants will not be present for the status conference. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 03/24/2011)
04/07/2011	<u>46</u>		ORDER granting <u>45</u> Motion to Continue as to Raymond L. Rogers (1) and David L. Hollis III (2) Status Conference set for 5/11/2011 at 02:30 PM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. Jury Trial set for 5/24/2011 at 09:00 AM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. Signed by District Judge J. Thomas Marten on 4/7/2011. (adw) (Entered: 04/07/2011)
05/11/2011	<u>47</u>		MINUTE ENTRY for proceedings held before District Judge J. Thomas Marten: STATUS CONFERENCE as to Raymond L. Rogers and David L. Hollis, III held on 5/11/2011. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 05/11/2011)
05/16/2011	<u>48</u>		MOTION to Continue Jury Trial by Raymond L. Rogers. (McEnulty, Sean) (Entered: 05/16/2011)
05/18/2011	<u>49</u>		ORDER granting <u>48</u> Motion to Continue. Time excluded from 5/16/2011 as to Raymond L. Rogers (1) and David L. Hollis, III. A Status Conference/Change of Plea and a Jury Trial date of this case will be scheduled by this Court at a later date. Signed by District Judge J. Thomas Marten on 5/17/2011. (adw) (Entered: 05/18/2011)
05/19/2011	<u>50</u>		NOTICE OF HEARING as to Defendants Raymond L. Rogers and David L. Hollis, III: Jury Trial set for 7/19/2011 at 9:00 AM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. Status Conference set for 7/7/2011 at 2:30 PM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. (mss) (Entered: 05/19/2011)
06/03/2011	<u>51</u>		ARREST WARRANT returned executed on 12/01/2010 as to Raymond L. Rogers. (aa) (Entered: 06/06/2011)
06/21/2011	<u>54</u>		SUPERSEDING INDICTMENT as to Raymond L. Rogers (1) count(s) 1s, 2s, 3s, 4s, 5s, 6s, David L. Hollis, III (2) count(s) 1s, 2s, 3s, Shelan D. Peters (3) count(s) 1s, 2s, 3s. (aa) (Entered: 06/22/2011)
07/06/2011	<u>63</u>		MINUTE ENTRY for proceedings held before Magistrate Judge Karen M. Humphreys: ARRAIGNMENT as to Raymond L. Rogers (1) Count 1s, 2s, 3s, 4s, 5s, 6s held on 7/6/2011. Defendant's next appearance before Judge Marten as directed. (Tape #1:36-1:39) (aa) (Entered: 07/07/2011)
07/07/2011	<u>64</u>		MINUTE ENTRY for proceedings held before District Judge J. Thomas Marten: STATUS CONFERENCE as to Raymond L. Rogers and David L. Hollis, III held on 7/7/2011. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 07/07/2011)
07/12/2011	<u>65</u>		MOTION to Continue Jury Trial by Raymond L. Rogers as to Raymond L. Rogers, David L. Hollis, III. (McEnulty, Sean) (Entered: 07/12/2011)
07/14/2011	<u>66</u>		AGREED ORDER CONTINUING JURY TRIAL granting <u>65</u> Motion to Continue. Time excluded from 07/14/2011 until 09/13/2011 as to Raymond L. Rogers (1) & David L. Hollis III (2). Jury Trial set for 9/13/2011 at 09:00 AM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. Status

		Conference is continued to 08/31/2011 at 3:00 PM. Signed by District Judge J. Thomas Marten on 7/13/2011. (aa) (Entered: 07/14/2011)
08/25/2011	<u>67</u>	NOTICE OF HEARING as to Defendants Raymond L. Rogers and David L. Hollis, III: Status conference RE-SET for 8/31/11 at 1:00 PM in Courtroom 238 before District Judge J. Thomas Marten. THIS IS A TIME CHANGE ONLY. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 08/25/2011)
08/29/2011	<u>68</u>	MOTION to Continue Status Conference and Jury Trial by Raymond L. Rogers. (McEnulty, Sean) (Entered: 08/29/2011)
08/29/2011	<u>69</u>	NOTICE OF CANCELLED HEARING: The status conference set on August 31, 2011, at 1:00 p.m. as to Defendants Raymond L. Rogers and David L. Hollis, III is cancelled. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 08/29/2011)
08/30/2011	<u>70</u>	ORDER granting <u>68</u> Motion to Continue. Time excluded from 08/30/2011 as to Raymond L. Rogers (1). Signed by District Judge J. Thomas Marten on 8/30/2011. (aa) (Entered: 08/30/2011)
08/30/2011	<u>71</u>	NOTICE OF HEARING as to Defendants Raymond L. Rogers and David L. Hollis, III: Jury Trial RE-SET for 10/25/2011 at 9:00 AM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. Status Conference RE-SET for 10/13/2011 at 3:30 PM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. (mss) (Entered: 08/30/2011)
09/09/2011	<u>72</u>	ARREST WARRANT on Superseding Indictment returned executed on 12/1/10 as to Raymond L. Rogers (smg) (Entered: 09/09/2011)
09/30/2011	<u>76</u>	NOTICE OF EXPERT TESTIMONY pursuant to Rule 16(a)(1)(G) by USA as to Raymond L. Rogers, David L. Hollis, III, Shelan D. Peters (Attachments: # <u>1</u> Attachment A, # <u>2</u> Attachment B)(Smith, Aaron) (Entered: 09/30/2011)
10/13/2011	<u>77</u>	MINUTE ENTRY for proceedings held before District Judge J. Thomas Marten: STATUS CONFERENCE as to Raymond L. Rogers and David L. Hollis, III held on 10/13/2011. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 10/13/2011)
10/24/2011	<u>79</u>	ORDER FOR CONTINUANCE granting <u>78</u> Motion to Continue. Time excluded from 10/24/2011 until 11/29/2011 as to David L. Hollis III (2). Jury Trial set for 11/29/2011 at 09:00 AM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. Signed by District Judge J. Thomas Marten on 10/24/2011. (aa) (Entered: 10/24/2011)
10/24/2011	<u>80</u>	NOTICE OF HEARING as to Defendants Raymond L. Rogers and David L. Hollis, III. Status Conference set for 11/14/2011, at 03:00 PM in Courtroom 238 before District Judge J. Thomas Marten. (jlw) (Entered: 10/24/2011)
11/07/2011	<u>81</u>	DEMAND FOR NOTICE OF ALIBI DEFENSE by USA as to Raymond L. Rogers (Smith, Aaron) (Entered: 11/07/2011)
11/07/2011	<u>82</u>	NOTICE OF EXPERT TESTIMONY pursuant to Rule 16(a)(1)(G) by USA as to Raymond L. Rogers, David L. Hollis, III (Attachments: # <u>1</u> Attachment A)(Smith, Aaron) (Entered: 11/07/2011)

11/08/2011	83	NOTICE OF HEARING as to Defendants Raymond L. Rogers and David L. Hollis, III: Jury Trial RE-SET to commence on Monday, November 28, 2011 at 9:00 AM in Courtroom 238 before District Judge J. Thomas Marten. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 11/08/2011)
11/14/2011	<u>84</u>	NOTICE OF EXPERT TESTIMONY pursuant to Rule 16(a)(1)(G) by USA as to Raymond L. Rogers, David L. Hollis, III (Attachments: # <u>1</u> Attachment A, # <u>2</u> Attachment B)(Smith, Aaron) (Entered: 11/14/2011)
11/14/2011	<u>85</u>	ENTRY OF APPEARANCE on behalf of USA by Lanny D. Welch (Welch, Lanny) (Entered: 11/14/2011)
11/14/2011	<u>86</u>	MINUTE ENTRY for proceedings held before District Judge J. Thomas Marten: STATUS CONFERENCE as to Raymond L. Rogers and David L. Hollis, III held on 11/14/2011. (Court Reporter Michelle Hancock.) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (jlw) (Entered: 11/15/2011)
11/21/2011	<u>87</u>	RESPONSE by Raymond L. Rogers (McEnulty, Sean) (Entered: 11/21/2011)
11/28/2011	<u>89</u>	MOTION to Dismiss Indictment ( <i>First Superseding Indictment</i> ) by USA as to Raymond L. Rogers, David L. Hollis, III, Shelan D. Peters. (Smith, Aaron) (Entered: 11/28/2011)
11/29/2011	<u>91</u>	ORDER granting <u>89</u> Motion to Dismiss Indictment as to Raymond L. Rogers (1), David L. Hollis III (2), Shelan D. Peters (3). Signed by District Judge J. Thomas Marten on 11/28/2011. (aa) (Entered: 11/29/2011)
11/30/2011	<u>93</u>	MINUTE ENTRY for proceedings held before District Judge J. Thomas Marten: INSTRUCTIONS CONFERENCE as to Raymond L. Rogers held on 11/30/2011. (Court Reporter Jana McKinney.) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 11/30/2011)
11/30/2011	<u>96</u>	MINUTE ORDER by deputy clerk directing that lunch be provided by the clerk to the jury members during their deliberation. Entered by deputy clerk on 11/30/2011. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 11/30/2011)
12/01/2011	<u>98</u>	JURY INSTRUCTIONS as to Raymond L. Rogers. (mss) (Entered: 12/01/2011)
12/01/2011	<u>99</u>	ORAL MOTION for Acquittal by Raymond L. Rogers. (aa) (Entered: 12/01/2011)
12/01/2011	<u>100</u>	ORDER denying <u>99</u> Motion for Acquittal as to Raymond L. Rogers (1). Signed by District Judge J. Thomas Marten on 12/1/2011. (aa) (Entered: 12/01/2011)
12/01/2011	<u>101</u>	WITNESS & EXHIBIT LIST by Raymond L. Rogers. (aa) (Entered: 12/01/2011)
12/01/2011	<u>102</u>	MINUTE ENTRY for proceedings held before District Judge J. Thomas Marten: JURY TRIAL as to Raymond L. Rogers held on 12/1/2011. Sentencing set for 2/15/2012 at 03:30 PM in Courtroom 238 (JTM) before

		District Judge J. Thomas Marten. All exhibits returned to counsel. Verdict of guilty to counts 1, 2 and 3. (Court Reporter Jana McKinney.) (aa) (Entered: 12/02/2011)
12/01/2011	<u>103</u>	JURY VERDICT as to Raymond L. Rogers (1) Guilty on Counts 1-3. (aa) (Additional attachment(s) added on 3/17/2015: # <u>1</u> UNREDACTED version) (cs). (Entered: 12/02/2011)
12/01/2011	<u>104</u>	QUESTIONS FROM THE JURY FILED as to Raymond L. Rogers. (Attachments: # <u>1</u> Question 2, # <u>2</u> Question 3)(aa) (Additional attachment(s) added on 3/17/2015: # <u>3</u> UNREDACTED version) (cs). (Entered: 12/02/2011)
12/02/2011	<u>105</u>	NOTICE OF HEARING as to Defendant Raymond L. Rogers: Sentencing set for 2/15/2012 at 3:30 PM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. (mss) (Entered: 12/02/2011)
01/26/2012	<u>108</u>	MOTION to Continue Sentencing Date and Motion to Continue The Defendant's Presentence Investigation Reports Response/Objection Date by Raymond L. Rogers. (McEnulty, Sean) (Entered: 01/26/2012)
01/27/2012	<u>109</u>	NOTICE OF HEARING as to Defendant Raymond L. Rogers: Sentencing RE-SET for 4/16/2012 at 10:00 AM in Courtroom 238 (JTM) before District Judge J. Thomas Marten. (mss) (Entered: 01/27/2012)
01/27/2012	<u>110</u>	ORDER sustaining <u>108</u> Motion to Continue as to Raymond L. Rogers (1). See order for details. Signed by District Judge J. Thomas Marten on 1/27/2012. (aa) (Entered: 01/27/2012)
04/04/2012	<u>117</u>	PRESENTENCE INVESTIGATION REPORT as to Raymond L. Rogers  <b>(NOTE: Access to this document is restricted to the USA and this defendant.)</b>  (USPO) (Entered: 04/04/2012)
04/15/2012	<u>118</u>	OBJECTION TO Presentence Report by Raymond L. Rogers (McEnulty, Sean) (Entered: 04/15/2012)
04/16/2012	<u>119</u>	MINUTE ENTRY for proceedings held before District Judge J. Thomas Marten: SENTENCING HEARING held on 4/16/2012 as to defendant Raymond L. Rogers. (Court Reporter Jana McKinney.) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 04/16/2012)
04/17/2012	<u>120</u>	JUDGMENT as to Raymond L. Rogers (1): 234 Months Imprisonment (Count 1: 150 months, Count 2: 84 months to run consecutive to counts 1 & 3, Count 3: 120 months to run concurrent to counts 1 & 2); 5 Years Supervised Release (Counts 1 & 3: 3 years each count, to run concurrent to each other, Count 2: 5 years to run concurrent to counts 1 & 3); \$300 Assessment. Signed by District Judge J. Thomas Marten on 4/16/2012. (aa) (Entered: 04/17/2012)
04/17/2012	<u>121</u>	STATEMENT OF REASONS as to Raymond L. Rogers re <u>120</u> Judgment.  <b>(NOTE: Access to this document is restricted to the USA and this defendant.)</b>

		(aa) (Entered: 04/17/2012)
05/01/2012	<u>122</u>	NOTICE OF APPEAL TO 10CCA as to defendant Raymond L. Rogers (McEnulty, Sean) (Entered: 05/01/2012)
05/02/2012	<u>123</u>	PRELIMINARY RECORD ON APPEAL transmitted to 10CCA as to Raymond L. Rogers re <u>122</u> Notice of Appeal – Final Judgment. (Attachments: # 1 Preliminary Packet)(aa) (Entered: 05/02/2012)
05/02/2012	<u>124</u>	APPEAL DOCKETED in 10CCA on 05/02/2012 and assigned Appeal No. 12-3125 re <u>122</u> Notice of Appeal – Final Judgment filed by Raymond L. Rogers. Transcript order form, designation of record and docketing statement due 05/16/2012 for Raymond L. Rogers. Notice of appearance due on 05/16/2012 for Raymond L. Rogers and United States of America. (aa) (Entered: 05/04/2012)
05/03/2012		APPEAL FEE STATUS: filing fee waived re: Notice of Appeal – Final Judgment <u>122</u> on behalf of Defendant Raymond L. Rogers. (THIS IS A TEXT ONLY ENTRY–NO DOCUMENT IS ASSOCIATED WITH THIS TRANSACTION) (aa) (Entered: 05/03/2012)
05/17/2012	<u>125</u>	TRANSCRIPT ORDER FORM: Transcript Requested Jury Trial 11/28/11 to 11/30/11 re <u>122</u> Notice of Appeal – Final Judgment filed by Raymond L. Rogers (McEnulty, Sean) (Entered: 05/17/2012)
05/17/2012	<u>126</u>	TRANSCRIPT ORDER FORM: Transcript Requested Jury Trial 11/29/11 Morning Only re <u>122</u> Notice of Appeal – Final Judgment filed by Raymond L. Rogers (McEnulty, Sean) (Entered: 05/17/2012)
05/24/2012	<u>127</u>	TRANSCRIPT ORDER FORM by Court Reporter Jana McKinney ordering transcripts of Jury Trial re <u>122</u> Notice of Appeal – Final Judgment filed by Raymond L. Rogers (Appeal No. 12-3125) Transcript due by 7/5/2012. (jlh) (Entered: 05/24/2012)
06/01/2012	<u>128</u>	CERTIFICATE OF FILING OF TRANSCRIPT by Court Reporter Jo Wilkinson (jw) (Entered: 06/01/2012)
06/01/2012	<u>129</u>	<p>TRANSCRIPT of Trial Volume 2 held November 29, 2011, as to Raymond L. Rogers before Judge J. Thomas Marten, Court Reporter Jo Wilkinson, 316-315-4334, jo_wilkinson@ksd.uscourts.gov. Transcript purchased by: Mr. Sean C. McEnulty. Volume: 2.</p> <p><b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at <a href="http://www.ksd.uscourts.gov">www.ksd.uscourts.gov</a>. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Release of Transcript Restriction set for 8/30/2012. (jw) (Entered: 06/01/2012)</p>

06/05/2012	<u>130</u>	<p>DESIGNATION OF RECORD ON APPEAL by Raymond L. Rogers re <a href="#">122</a>      Notice of Appeal – Final Judgment (Appeal No. 12-3125) (Attachments: # 1      District Court Docket Sheet)(McEnulty, Sean) (Entered: 06/05/2012)</p>
06/11/2012	<u>131</u>	<p>TRANSCRIPT of Trial Volume 1 held November 28, 2011 as to Raymond L. Rogers before Judge J. Thomas Marten, Court Reporter Jana McKinney, 316-315-4314, <a href="mailto:jana_mckinney@ksd.uscourts.gov">jana_mckinney@ksd.uscourts.gov</a>. Transcript purchased by: Mr. Sean McEnulty. Volume: 1.</p> <p><b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at <a href="http://www.ksd.uscourts.gov">www.ksd.uscourts.gov</a>. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Release of Transcript Restriction set for 9/10/2012. (jlh) (Entered: 06/11/2012)</p>
06/11/2012	<u>132</u>	<p>TRANSCRIPT of Trial Volume 2B held November 29, 2011 as to Raymond L. Rogers before Judge J. Thomas Marten, Court Reporter Jana McKinney, 316-315-4314, <a href="mailto:jana_mckinney@ksd.uscourts.gov">jana_mckinney@ksd.uscourts.gov</a>. Transcript purchased by: Mr. Sean McEnulty. Volume: 2B.</p> <p><b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at <a href="http://www.ksd.uscourts.gov">www.ksd.uscourts.gov</a>. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Release of Transcript Restriction set for 9/10/2012. (jlh) (Entered: 06/11/2012)</p>
06/11/2012	<u>133</u>	<p>TRANSCRIPT of Trial Volume 3 held November 30, 2011 as to Raymond L. Rogers before Judge J. Thomas Marten, Court Reporter Jana McKinney, 316-315-4314, <a href="mailto:jana_mckinney@ksd.uscourts.gov">jana_mckinney@ksd.uscourts.gov</a>. Transcript purchased by: Mr. Sean McEnulty. Volume: 3.</p> <p><b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at <a href="http://www.ksd.uscourts.gov">www.ksd.uscourts.gov</a>. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time,</p>

		<p><b>this transcript will be made electronically available on the date set forth below.</b></p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Release of Transcript Restriction set for 9/10/2012. (jlh) (Entered: 06/11/2012)</p>
06/11/2012	<u>134</u>	CERTIFICATE OF FILING OF TRANSCRIPT by Court Reporter Jana McKinney (jlh) (Entered: 06/11/2012)
07/12/2012	<u>135</u>	RECORD ON APPEAL transmitted to 10CCA electronically as to Raymond L. Rogers, Volume(s) 3, re <u>122</u> Notice of Appeal – Final Judgment. (Appeal No. 12-3125) (aa) (Entered: 07/12/2012)
09/11/2012	<u>136</u>	TRANSCRIPT ORDER FORM: Transcript Requested Sentencing Proceedings Held on 04/16/12 re <u>122</u> Notice of Appeal – Final Judgment filed by Raymond L. Rogers (McEnulty, Sean) (Entered: 09/11/2012)
09/14/2012	<u>137</u>	ORDER of 10CCA as to Raymond L. Rogers re <u>122</u> Notice of Appeal – Final Judgment. Order granting leave to supplement the record on appeal. Supplemental record on appeal due 09/24/2012 for Timothy M. O'Brien (KSwi), Clerk of Court. In light of the outstanding transcript, the 9/20/12 due date for the appellant's brief is vacated. Appellant's opening brief shall be served and filed within 30 day of filing of the supplemental record. Served on 09/14/2012. (Appeal No. 12-3125) (aa) (Entered: 09/17/2012)
09/20/2012	<u>138</u>	TRANSCRIPT ORDER FORM by Court Reporter Jana McKinney ordering transcripts of Sentencing re <u>122</u> Notice of Appeal – Final Judgment filed by Raymond L. Rogers. (Appeal No. 12-3125) Transcript due by 10/12/2012. (aa) (Entered: 09/21/2012)
10/03/2012	<u>139</u>	TRANSCRIPT of Sentencing held April 16, 2012 as to Raymond L. Rogers before Judge J. Thomas Marten, Court Reporter Jana McKinney, 316-315-4314, <a href="mailto:jana_mckinney@ksd.uscourts.gov">jana_mckinney@ksd.uscourts.gov</a> . Transcript purchased by: Mr. Sean McEnulty.
		<p><b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at <a href="http://www.ksd.uscourts.gov">www.ksd.uscourts.gov</a>. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Release of Transcript Restriction set for 1/2/2013. (jlh) (Entered: 10/03/2012)</p>
10/03/2012	<u>140</u>	CERTIFICATE OF FILING OF TRANSCRIPT by Court Reporter Jana McKinney (jlh) (Entered: 10/03/2012)
10/04/2012	<u>141</u>	

		SUPPLEMENTAL RECORD ON APPEAL transmitted to 10CCA as to Raymond L. Rogers re <u>122</u> Notice of Appeal – Final Judgment. (Appeal No. 12-3125) (aa) (Entered: 10/04/2012)
04/29/2013	<u>142</u>	MANDATE from 10CCA: affirming decision of the District Court as to Raymond L. Rogers. (Appeal No. 12-3125) (Attachments: # <u>1</u> Mandate issued letter)(aa) (Entered: 04/29/2013)
06/14/2013	<u>143</u>	MOTION to Withdraw Sean C. McEnulty as Attorney by Raymond L. Rogers. (aa) (Entered: 06/14/2013)
06/14/2013	<u>144</u>	MOTION FOR FREE DOCUMENTS by Raymond L. Rogers. (aa) (Entered: 06/14/2013)
06/19/2013	145	ORDER. Pursuant to the Tenth Circuit's Mandate (Dkt. 142) affirming the district court's verdict, the court denies as moot Motion to Withdraw Sean C. McEnulty (Dkt. 143) and denies as moot Motion for Free Documents as Mr. McEnulty has provided the trial and sentencing transcripts and discovery to Mr. Rogers. Entered by District Judge J. Thomas Marten on 6/19/2013. Mailed to pro se party Raymond L. Rogers by regular mail. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (mss) (Entered: 06/19/2013)
12/02/2013	<u>146</u>	MOTION to Vacate under 28 U.S.C. 2255 by Raymond L. Rogers. (smg) Civil case 6:13-cv-01448-JTM opened. (Entered: 12/03/2013)
12/02/2013	<u>147</u>	MEMORANDUM IN SUPPORT of <u>146</u> MOTION to Vacate under 28 U.S.C. 2255 by Raymond L. Rogers as to Raymond L. Rogers. (smg) (Entered: 12/03/2013)
12/16/2013	<u>148</u>	SUPPLEMENT to <u>146</u> Motion to Vacate under 28 U.S.C. 2255 by Raymond L. Rogers. (smg) Modified to correct title on 12/16/2013 (smg). (Entered: 12/16/2013)
01/08/2014	<u>149</u>	MOTION for Extension of Time to File Response as to <u>146</u> MOTION to Vacate under 28 U.S.C. 2255 by USA as to Raymond L. Rogers. (Welch, Lanny) Modified on 1/9/2014 to correct filing event and text (alm). (Entered: 01/08/2014)
01/09/2014	<u>150</u>	ORDER granting <u>149</u> plaintiff's Motion for Extension of Time to February 7, 2014 to respond to Raymond L. Rogers' Motion to Vacate. Signed by District Judge J. Thomas Marten on 1/9/2014. Mailed to pro se party Raymond L. Rogers by regular mail. (mss) (Entered: 01/09/2014)
02/06/2014	<u>151</u>	MOTION for Extension of Time to File Response/Reply to <i>Def.'s 2255 Motion</i> by USA as to Raymond L. Rogers. (Brown, James) (Entered: 02/06/2014)
02/06/2014	<u>152</u>	ORDER granting <u>151</u> plaintiff's Motion for Extension of Time to March 7, 2014 to respond to defendant Rogers' Motion to Vacate. Signed by District Judge J. Thomas Marten on 2/6/2014. Mailed to pro se party Raymond L. Rogers by regular mail. (mss) (Entered: 02/06/2014)
03/06/2014	<u>153</u>	MOTION for Extension of Time to File Response/Reply to <i>Def.'s 2255 Motion</i> by USA as to Raymond L. Rogers. (Brown, James) (Entered: 03/06/2014)
03/06/2014	<u>154</u>	

## **EXHIBIT C**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA, )

Plaintiff, ) Criminal Action

v. ) No. 10-10186 -01, 02, 03- JTM  
**RAYMOND L. ROGERS,** )  
**DAVID L. HOLLIS III, and** )  
**SHELAN D. PETERS,** )

Defendants. )

**FIRST SUPERSEDING INDICTMENT**

The Grand Jury charges:

**COUNT ONE**

On or about December 1, 2010, in the District of Kansas, the defendants,

**RAYMOND L. ROGERS,  
DAVID L. HOLLIS III, and  
SHELAN D. PETERS,**

by force, violence, and intimidation did take from the person or presence of another, money, namely \$102,743.00 United States Currency, belonging to, and in the care, custody, control, management, and possession of, the Equity Bank in Wichita, Kansas, a bank whose deposits were then insured by the Federal Deposit Insurance Corporation.

In violation of Title 18, United States Code, Section 2113(a) and Section 2.

**COUNT TWO**

On or about December 1, 2010, in the District of Kansas, the defendants,

**RAYMOND L. ROGERS,  
DAVID L. HOLLIS III, and  
SHELAN D. PETERS,**

did knowingly possess firearms and brandish firearms, to wit: a Intratec Luger 9mm handgun, and a Bersa Thunder .380 handgun, in furtherance of a crime of violence for which they may be prosecuted in a court of the United States, to wit: Bank Robbery in violation of Title 21, United States Code, Section 2113(a).

In violation of Title 18, United States Code, Section 924(c)(1)(A) and Section 2.

**COUNT THREE**

On or about December 1, 2010, in the District of Kansas, the defendants,

**RAYMOND L. ROGERS,  
DAVID L. HOLLIS III, and  
SHELAN D. PETERS,**

having been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess in and affecting commerce, firearms, to wit: a Intratec Luger 9mm handgun, and a Bersa Thunder .380 handgun, said firearm having been shipped and transported in interstate commerce.

In violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2) and Section 2.

**COUNT FOUR**

On or about November 15, 2010, in the District of Kansas, the defendant,

**RAYMOND L. ROGERS,**

by force, violence, and intimidation did take from the person or presence of another, money, namely \$117,141.00 United States Currency, belonging to, and in the care, custody, control, management, and possession of, the Sunflower Bank in Wichita, Kansas, a bank whose deposits were then insured by the Federal Deposit Insurance Corporation.

In violation of Title 18, United States Code, Section 2113(a) and Section 2.

**COUNT FIVE**

On or about November 15, 2010, in the District of Kansas, the defendant,

**RAYMOND L. ROGERS,**

did knowingly possess firearms and otherwise use firearms, to wit: Intratec Tec 22 .22 caliber handgun, and a Modesa F.T. .22 caliber revolver, in furtherance of a crime of violence for which they may be prosecuted in a court of the United States, to wit: Bank Robbery in violation of Title 21, United States Code, Section 2113(a).

In violation of Title 18, United States Code, Section 924(c)(1)(A) and Section 2

**COUNT SIX**

On or about November 15, 2010, in the District of Kansas, the defendant,

**RAYMOND L. ROGERS,**

having been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess in and affecting commerce, firearms, to wit: a Intratec Tec 22 .22 caliber handgun, and a Modesa F.T. .22 caliber revolver, said firearm having been shipped and transported in interstate commerce.

In violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2) and Section 2.

**FORFEITURE NOTICE**

Upon conviction of the offense in Count One, the defendants, **RAYMOND L. ROGERS, DAVID L. HOLLIS III, and SHELAN D. PETERS**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c), any firearms and ammunition involved in the commission of the offense, including, but not limited to:

- a) a Intratec Luger 9mm handgun,
- b) a Bersa Thunder .380 handgun.

All pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c).

Upon conviction of the offense in Count Four, the defendants, **RAYMOND L ROGERS**, and **SHELAN D. PETERS**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c), any firearms and ammunition involved in the commission of the offense, including, but not limited to:

- a) a Intratec Tec 22, .22 caliber handgun,
- b) a Modesa F.T., .22 caliber revolver.

All pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c).

**A TRUE BILL**

June 21, 2011

DATE

S/Foreperson

FOREMAN OF THE GRAND JURY

/s/ Barry R. Grissom  
BARRY R. GRISSEOM  
United States Attorney  
District of Kansas  
1200 Epic Center, 301 N. Main  
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(316) 269-6481  
(316) 269-6484 (fax)  
[barry.grissom@usdoj.gov](mailto:barry.grissom@usdoj.gov)  
KS. S. Ct. No. 10866

(It is requested that trial be held in Wichita, Kansas.)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA, )

Plaintiff, )

Criminal Action

v. )

No. 10-10186-01, 02, 03-JTM

RAYMOND L. ROGERS, )  
DAVID L. HOLLIS III, and )  
SHELAN D. PETERS, )

Defendant. )

**MOTION TO DISMISS WITHOUT PREJUDICE**

Comes now the United States of America, by and through Aaron L. Smith, Special Assistant United States Attorney, and moves the Court to dismiss without prejudice the First Superseding Indictment (Doc. #54) filed in this case on June 21, 2011. **The United States intends to proceed on the original indictment (Doc. #12) filed in this case on December 7, 2010.**

WHEREFORE, the United States respectfully requests that the Court dismiss without prejudice the First Superseding Indictment filed on June 21, 2011, in the above-captioned case.

Respectfully submitted,

BARRY R. GRISSOM  
United States Attorney

s/ Aaron L. Smith

AARON L. SMITH

Kan. S. Ct. No. 20447

Special Assistant United States Attorney  
District of Kansas

301 N. Main, Suite 1200

Wichita, Kansas 67202

Tel.: (316) 269-6481

FAX: (316) 269-6484

**CERTIFICATE OF SERVICE**

I hereby certify that on November 28, 2011, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing following:

Sean McEnulty, *attorney for defendant Rogers.*

s/ Aaron L. Smith  
AARON L. SMITH  
Special Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA, )  
v. ) Plaintiff, ) Criminal Action  
RAYMOND L. ROGERS, ) v. ) No. 10-10186-01, 02, 03-JTM  
DAVID L. HOLLIS III, and )  
SHELAN D. PETERS, )  
Defendant. )

ORDER

Now on this 28<sup>th</sup> day of November, 2011, the Court, having read and considered the Motion to Dismiss Without Prejudice filed herein by the United States, and being satisfied good cause exists,

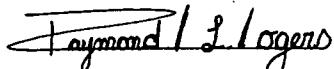
IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the First Superseding Indictment filed herein on June 21, 2011, is dismissed without prejudice. The United States intends to proceed on the original indictment (Doc. #12) filed in this case on December 7, 2010.

s/J. Thomas Marten  
HONORABLE J. THOMAS MARTEN  
UNITED STATES DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I, RAYMOND L. ROGERS, hereby certify (verify, declare, or state) that one true copy of this forthcoming [Petition for a Writ of Mandamus and/or Prohibition] was mailed to the Clerk of the United States Supreme Court, certified, via United States Postal Carrier, on this 13 day in November, 2020.

RESPECTFULLY SIGNED,



RAYMOND L. ROGERS, Pro se.

§ 1746 UNSWORN DECLARATIONS UNDER PENALTY OF PERJURY

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on November 4, 2020

Signature,



RAYMOND L. ROGERS, Pro se