

V. APPENDIX IA

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USA v. JONES, et al., 5/1/18, SENTENCING, BROWN

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF VIRGINIA
3 ROANOKE DIVISION

4 UNITED STATES OF AMERICA,

CASE NO.: 7:16CR30026-4

SENTENCING HEARING

5 Plaintiff,

3:40 p.m. - 6:01 p.m.

6 vs.

May 1, 2018

Roanoke, Virginia

7
8 MICHAEL JONES, et al.,

Before:

HONORABLE MICHAEL F. URBANSKI

9 Defendant.

UNITED STATES DISTRICT JUDGE

WESTERN DISTRICT OF VIRGINIA

10 *****

11 APPEARANCES:

12 For the United States:

GRAYSON A. HOFFMAN, AUSA

United States Attorneys Office

Western District of Virginia

116 N. Main Street, Room 130

Harrisonburg, VA 22802

540-432-6636

grayson.hoffman@usdoj.gov

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16
17 For Defendant Brown:

Terrance Nathaniel Brown, Jr.

PRO SE

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19
20
21
22 Court Reporter: JoRita B. Meyer, RPR, RMR, CRR

210 Franklin Road, S.W.

Roanoke, Virginia 24011

540.857.5100, Ext. 5311

23 Proceedings recorded by mechanical stenography;
24 transcript produced by computer.
25

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1 (Proceedings commenced, 3:40 p.m.)

2 THE COURT: Please call the case.

3 THE CLERK: This is the *United States of America*
4 *versus Terrance Nathaniel Brown*, Criminal Action Number
5 7:16-CR-30026, Defendant 4.

6 THE COURT: Okay. Is the United States ready to
7 proceed?

8 MR. HOFFMAN: Yes, Your Honor.

9 THE COURT: I see you here, Mr. Beers. Nice to see
10 you.

11 MR. BEERS: Nice to see you, Your Honor.

12 THE COURT: Mr. Brown, do you wish to represent
13 yourself at this sentencing or do you wish to have Mr. Beers
14 do it?

15 THE DEFENDANT: I'll continue pro se, sir.

16 THE COURT: You'll continue pro se.

17 Mr. Beers, you do not need to remain. Thank you for
18 coming over here.

19 MR. BEERS: Thank you.

20 THE COURT: Thank you for being available, but you
21 do not need to be here. Mr. Brown is going to represent
22 himself.

23 MR. BEERS: Thank you, Judge.

24 THE COURT: Thank you, Mr. Beers.

25 Okay. This case -- let's recap where we are in this

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1 case. This case has been set down for sentencing.

2 Are you ready to proceed, Mr. Brown?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. This case went to jury trial,
5 lasted many weeks, and the Court found Mr. Brown guilty of
6 Count Two, the drug conspiracy, in this case.

7 The jury did not reach a verdict on Count One, the
8 RICO conspiracy, and that is being retried in the Eastern
9 District of Virginia. I transferred it, at Mr. Brown's
10 request, after the -- after the jury was hung and I had to
11 declare a mistrial as to Count One.

12 I have read and considered the presentence report
13 and the objections filed in this case.

14 Mr. Hoffman, has the government had a chance to do
15 so?

16 MR. HOFFMAN: Yes, Your Honor.

17 THE COURT: And, Mr. Brown, have you had a chance to
18 do so?

19 THE DEFENDANT: I wanted to take this time to object
20 to the level two enhancement that I just got on the revised
21 presentence report for the narcotics in the prisons.

22 THE COURT: Well, we're going to have a chance to --
23 okay, so you want to object to a two-level enhancement for
24 narcotics coming into the prisons?

25 THE DEFENDANT: Yes, sir. It was added on a revised

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1 one.

2 THE COURT: Okay. Did you get a copy of an order
3 entered in your case?

4 THE DEFENDANT: Yes, sir. Mr. Beers just gave it to
5 me.

6 THE COURT: Okay. All right. Dealing with some of
7 these objections, but there's a lot of objections that we
8 need to deal with before the Court can make guidelines
9 findings.

10 Let's hear first on the objections filed by the
11 government. Mr. Hoffman? And they may have been dealt with
12 in the pre- --

13 MR. HOFFMAN: I'm just doublechecking, because we've
14 made so many of these, Your Honor, but I don't believe we
15 have any --

16 THE COURT: Any outstanding?

17 MR. HOFFMAN: -- any outstanding objections, Your
18 Honor.

19 THE COURT: Ms. Cilek, do you know whether the
20 government has any outstanding objections?

21 PROBATION OFFICER: No, Your Honor. I revised part
22 of the presentence report to reflect that controlled
23 substances were distributed within the prison facility.
24 However, I did not change the presentence report based on his
25 role in the offense.

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1 THE COURT: Right. Okay. You gave him a three.

2 The government wanted a four. Okay?

3 PROBATION OFFICER: Yes.

4 THE COURT: All right. And then you gave him two
5 for -- in paragraph 152 for controlled substances distributed
6 into a correctional facility. And the government asked for
7 that and you gave him that, right?

8 PROBATION OFFICER: Yes, Your Honor. I investigated
9 that matter.

10 THE COURT: Okay. All right. So what we need to do
11 is take up the various objections to the presentence report
12 filed by Mr. Brown.

13 Mr. Brown, would you like to be heard from?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. Then you can come to the podium.

16 Good afternoon, Mr. Brown. Nice to see you. Do you
17 have any evidence you want to put on as to the objections?

18 THE DEFENDANT: I do have a witness that came for
19 the objections.

20 THE COURT: Okay.

21 THE DEFENDANT: Concerning the objections.

22 THE COURT: Well, if you want to call that witness,
23 let's hear what that witness has to say, and then we'll --
24 then I want to hear what your objections are. We'll hear
25 from the witness. Then I want to hear what your objections

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1 are, and then we'll hear from the government on the
2 objections and then the government -- see whether the
3 government has any evidence on the objections. Okay?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. So who is your witness?

6 THE DEFENDANT: Corey Owens.

7 THE COURT: Okay. Let's get Mr. Owens in here.

8 COREY OWENS, CALLED BY DEFENDANT, SWORN

9 DIRECT EXAMINATION

10 THE COURT: Have a seat. Good afternoon.

11 THE WITNESS: Good afternoon.

12 THE COURT: All right, Mr. Brown, ask Mr. Owens any
13 questions you want to.

14 BY THE DEFENDANT:

15 Q How you doing, Mr. Owens?

16 A Fine.

17 Q All right. Mr. Owens, have you ever been a subordinate
18 of me, Terrance Brown, War Stone, anything like that?

19 A Subordinate?

20 Q A subordinate. Have you ever been under me?

21 A Oh, no.

22 Q As far as the structure?

23 A No, sir.

24 Q And have I ever had any say-so on the things that you
25 carried out throughout your life?

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1 A No.

2 Q If you was doing something, either violent or nonviolent
3 or anything, can I tell you, "Yo, don't do that," and you
4 have to listen to me?

5 A No.

6 Q Have you ever seen me sell any narcotics?

7 A No.

8 Q Okay. And as far as your plea agreement, you had
9 admitted to some things in your plea agreement. But me
10 knowing you for a fact, I know you didn't even do half of
11 those things that you admitted to in the plea agreement.

12 Is there a reason why you admitted that you did?

13 A I just didn't want to take the chance of going to trial.

14 Q So, like, for instance, I know for a fact you never dealt
15 with cocaine in your life, and on the plea agreement it says,
16 "Have you sold over 500 grams of cocaine?" And you put,
17 "Yes."

18 Is there a reason why you put "yes" to that?

19 A I'm pretty sure that the government know that I didn't
20 sell 500 grams of cocaine, but I was told that that's -- that
21 was the amount in the whole case -- this is from my lawyer --
22 that the amount of the overall case, that's what I was
23 pleading out to.

24 Q And what about the 80 to 100 kilos -- 80 to 100 pounds of
25 marijuana that you admitted on your plea agreement that you

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1 sold?

2 THE COURT: Mr. Brown, this is your sentencing.
3 This doesn't have to do with Mr. Owens. What do these
4 questions have to do with your sentencing?

5 THE DEFENDANT: The confusion that he had got when
6 he filed it, because they're comparing his drug weight and
7 trying to make me accountable of it.

8 THE COURT: Okay. All right. Go ahead. I'll allow
9 you to ask these questions. All right.

10 BY THE DEFENDANT:

11 Q Basically --

12 THE COURT: He was asking you a question about some
13 kilos.

14 That's where you were. Go back and ask him that
15 question.

16 BY THE DEFENDANT:

17 Q Okay. The 80 to 100 kilos that you admitted that you
18 sold or had possession of during this case, is that true?

19 Did you --

20 A I admitted to selling marijuana, but I didn't admit to an
21 amount number, if that's what you're asking.

22 Q I'm just asking: Do you feel that you did that, or do
23 you feel like you was just making the right decision so you
24 wouldn't have to go to trial?

25 A I'm not sure if there was any kilos, but I did admit to

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1 selling large amounts of marijuana.

2 Q And when you was selling your large amounts of marijuana,
3 was I around you at any time?

4 A No.

5 Q Was I even there to even try to talk you out of it or to
6 encourage you to do it?

7 A No.

8 THE DEFENDANT: All right. I don't have any other
9 further questions.

10 THE COURT: Okay. Thank you for that, Mr. Brown.
11 You can go back to counsel table.

12 Mr. Hoffman, do you have any questions you want to
13 ask Mr. Owens?

14 MR. HOFFMAN: One moment, Your Honor.

15 Your Honor, I'm going to ask the clerk to print,
16 with the Court's indulgence, Mr. Owens' statement of facts.

17 THE COURT: Have we met before, Mr. Owens? I don't
18 think so.

19 THE WITNESS: Yes.

20 THE COURT: Did we?

21 THE WITNESS: Yes, sir.

22 THE COURT: Did you testify at the trial?

23 THE WITNESS: No.

24 THE COURT: Did you have a guilty plea with me?

25 THE WITNESS: Yes, sir.

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1 THE COURT: Or was it with Judge Conrad?

2 THE WITNESS: No, it was with you.

3 THE COURT: With me. Okay. Well, nice to see you
4 again.

5 THE WITNESS: You too, sir.

6 THE COURT: Some of the folks who pled guilty early
7 on pled with Judge Conrad before he transferred the case to
8 me, and I just couldn't remember whether you were one of
9 those or not.

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay.

12 MR. HOFFMAN: I think she's working on printing it.
13 I just had a couple of questions for him about the statement
14 of facts. That's all. So we'll just print it. I can -- oh,
15 Mr. Brown has let me borrow a copy of the statement of facts.

16 THE COURT: Okay.

17 MR. HOFFMAN: And then I think once we have a copy,
18 the Court can make that copy the official record. And we'll
19 just call it Government 1.

20 THE COURT: Okay.

21 (Government's Exhibit 1 marked)

22 BY MR. HOFFMAN:

23 Q Mr. Owens, I'm showing you what's been marked for
24 identification as Government 1. Do you recognize this?

25 A Yes.

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1 Q I'm showing you page 6. Is that your signature on the
2 final page, right here?

3 A Yes.

4 Q And here, am I reading this correctly? "From about
5 January of 2012 and continuing to the spring of 2016, Owens
6 knowingly and intentionally combined, conspired,
7 confederated, and agreed with other MSB members and
8 associates to possess with the intent to distribute and
9 distribute at least 500 grams, but less than 2 kilograms, of
10 a mixture or substance containing a detectable amount of
11 cocaine and at least 80 kilograms, but less than 100
12 kilograms, of marijuana."

13 Did I read that right?

14 A Yes.

15 Q And you signed here? That's your signature?

16 A Yes.

17 MR. HOFFMAN: Thank you.

18 THE WITNESS: You're welcome.

19 MR. HOFFMAN: Nothing further, Your Honor.

20 THE COURT: Mr. Brown, do you have any more
21 questions for Mr. Owens?

22 THE DEFENDANT: No, sir.

23 THE COURT: All right. Thank you, Mr. Owens. I
24 will see you again. Good luck to you.

25 THE WITNESS: Yes, sir.

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1 THE COURT: All right. Let's see. Mr. Brown, come
2 on back up to the podium. We need to talk about your
3 objections.

4 Okay. Which of your objections would you like to
5 discuss first?

6 THE DEFENDANT: We can discuss the drug weight
7 first.

8 THE COURT: Okay.

9 THE DEFENDANT: All right. In January 2005, in
10 *United States versus Booker*, the Supreme Court held the
11 mandatory provisions of the United States Sentencing
12 Guidelines unconstitutional. The Court found that the
13 sentencing guidelines regime under which a judge can enhance
14 a defendant's sentence based solely on his or her
15 determination of fact neither found by the jury nor admitted
16 by the defendant violated the Sixth Amendment trial by jury
17 rights unless that fact was a prior conviction.

18 And the reason why I brought that up is because
19 they're trying to account me for Mr. Owens' drug weight that
20 he admitted to, but none of this was presented during the
21 jury trial. He didn't even testify during the jury trial.
22 So the jury could have never foreseen anything concerning
23 Corey Owens when they made the decision to convict me on the
24 Count Two charge.

25 THE COURT: The question isn't whether the jury

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1 could foresee it and whether you're responsible for the
2 relevant conduct. The question is whether you could have
3 foreseen it and whether it was part of jointly undertaken
4 activity. That's the law.

5 THE DEFENDANT: And I think I just proved that I
6 couldn't have foreseen it by his testimony.

7 THE COURT: Well, he testified, and the Court will
8 consider that.

9 THE DEFENDANT: And as far as the constitutional
10 holding in the case that the Court may not increase a
11 sentence based on facts not proven to the jury, and those --
12 the facts that they're trying to use in the presentence
13 report was not proven by the jury beyond a reasonable doubt,
14 or at all.

15 Do you want me to continue with my arguments on the
16 other --

17 THE COURT: Yes, sir. Let's hear all of your
18 objections, because I want to hear whatever it is you have to
19 say about these objections.

20 THE DEFENDANT: Okay. They want to give me a
21 three-level increase for leadership and supervisor.

22 THE COURT: Uh-huh.

23 THE DEFENDANT: And when you're looking at the
24 3B1.1, the factors to be considered includes the exercise of
25 decision-making authority and degree of participation in

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1 planning or organizing the offense.

2 All right? Throughout the whole trial, the
3 government has put on evidence in Virginia, they have to
4 listen to leadership in New York. And in Virginia, they say
5 that EZ/Hasin Hubbert and Boogie/Larry Boone were the top
6 dogs, and that Anthony Day had testified that he was the
7 leader for MSB on the streets of Virginia, as well as RG was
8 the two top dogs. So in no way should that category fit me.

9 And there wasn't any evidence that the defendant
10 exercised control over any other participant, even if there
11 were evidence that showed defendant had recruited others to
12 scheme. And you can see *U.S. versus Quigley*, DC Circuit,
13 2004.

14 Also, the government did not provide one episode to
15 the Court where the defendant clearly exercised control over
16 any of the conspirators. Therefore, 3B1.1 should not apply
17 to the defendant. And you can see *U.S. versus Avidia*
18 (phonetic) Ninth Circuit, '96, as well as the government did
19 not prove that the defendant organized his co-conspirators
20 into concerted action. And that's another reason why 3B1.1
21 should not apply. And you can see *U.S. versus Renazelus*
22 (phonetic) Seventh Circuit, 2003.

23 And, in fact, I believe that the defendant should
24 have a two-level decrease, because the defendant was a minor
25 participant in the drug conspiracy.

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1 "When the defendant was the least culpable of all
2 co-conspirators, a mitigating role adjustment should be
3 available." See *United States versus Santos*.

4 And even if the government argues that I was heavily
5 involved in drug deals, mitigating role adjustments would
6 still be available because I was a minor participant in the
7 overall drug conspiracy.

8 In the episode with Jones and Dove with the Michael
9 Vick action, I was locked up. The transactions between
10 Jennings and Williams, I was incarcerated. When Williams and
11 Gerald were dealing drugs together, when -- that was before I
12 came home from prison. And when Rontea Gunn, Hasin Hubbert,
13 and Larry Boone had their drug ring going on, I was in a
14 different facility and didn't have any knowledge of such
15 events. And lastly, when Ronnie Nicholas had his operation
16 going on in Richmond, I was also incarcerated. I've been
17 incarcerated since August 28, 2015.

18 And as far as the PSR, the information in the PSR
19 cannot be considered factual evidence by the sentencing,
20 Judge, when the PSR simply recites the conclusions of the
21 prosecution. See *U.S. versus Rome* (phonetic), Fifth Circuit,
22 2000 --

23 THE COURT: For the first 73 paragraphs in the PSR,
24 I didn't -- I mentioned this at the other sentencing today; I
25 didn't mention it to you. I'm not considering the first 73

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1 paragraphs in the PSR as findings of fact. Those are simply
2 to set forth and recite the allegations in the indictment and
3 the procedural history of the case. The first 73 paragraphs
4 are not findings of fact in this case. That's just what the
5 government alleges and the procedural history.

6 For the part of the PSR that says "Offense Conduct,"
7 the Court has determined in other cases similar to yours that
8 that is relevant, and I'm going to consider all the rest of
9 that that was obtained by Ms. Cilek with regard to -- with
10 all of that because, as I indicated at the Rule 29 argument,
11 the drug conspiracy in this case is part and parcel of the
12 activities of the Mad Stone Bloods gang. The Mad Stone
13 Bloods gang activity and the drug conspiracy were
14 intertwined, and you couldn't separate them, because this was
15 a Mad Stone Bloods drug conspiracy.

16 And so all these paragraphs of the PSR related to
17 the organization and structure of the Mad Stone Bloods and
18 the paragraphs in the PSR that deal with the activities of
19 Mad Stone Blood members are relevant to this sentencing. And
20 so I am overruling any objection as regards the relevance of
21 the PSR.

22 All right?

23 THE DEFENDANT: Yes, sir. And lastly, as far as the
24 2D2.1 --

25 THE COURT: And that's the same ruling I made in all

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1 the other guys' cases this morning. All right?

2 THE DEFENDANT: All right. Yes, sir.

3 THE COURT: Same thing.

4 THE DEFENDANT: And number eight, if the substance
5 was heroin or any controlled Schedule I or II cocaine base;
6 and number six, if the substance is cocaine, LSD, or PCP; and
7 then number four, if the substance is any other controlled
8 substance; and when a mandatory minimum exceeds the guideline
9 range, the mandatory minimum becomes the guideline. And --

10 THE COURT: I don't think there's a mandatory
11 minimum in your case. I think you're zero to 20.

12 THE DEFENDANT: Yeah, zero to 20.

13 THE COURT: There's no mandatory minimum sentence in
14 your case.

15 THE DEFENDANT: Right.

16 THE COURT: It's zero to 20, because it's 21 United
17 States Code, Section 841(b)(1)(C).

18 Is that right, Ms. Cilek?

19 PROBATION OFFICER: Yes, Your Honor.

20 THE COURT: Okay. That's what I thought.

21 THE DEFENDANT: All right.

22 Well, lastly, the burden of the proof consists of
23 two parts: The production and the persuasion.

24 The prosecution has the burden of production on
25 every element. Thereby, not bringing a fact into issue, the

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1 judge may direct a verdict in the defendant's favor.

2 Sentencing vacated because Court failed to submit
3 drug quantity to the jury. See *U.S. versus Matkins* (4th Cir.
4 2003.)

5 THE COURT: And you know what? In all that stuff
6 you were talking about, about the -- the issues that you're
7 raising about whether or not there was a drug quantity sent
8 to the jury, that's if the Court applied the statutory
9 enhancement that is set forth in 21 United States Code,
10 Section 841(b)(1)(A) or 21 United States Code, Section
11 841(b)(1)(B). Each of those have statutory enhancements for
12 higher drug quantity. Okay?

13 THE DEFENDANT: Uh-huh.

14 THE COURT: You don't -- because 21, 841(b)(1)(A) is
15 ten to life. Okay? 21, 841(b)(1)(B) is five to 40. All
16 right? You don't fall in either one of those. Okay? You
17 fall in 21 United States Code, Section 841(b)(1)(C), zero to
18 20, no mandatory minimum. So those cases that talk about in
19 order to present a statutory enhancement it has to be ruled
20 on by the jury, that's if you fall under 841(b)(1)(A) or
21 841(b)(1)(B). You don't, and that evidence doesn't have to
22 be determined by the jury, but the drug weight can be
23 determined for this conspiracy because it's not a mandatory
24 minimum issue. It's a guidelines issue determined by the
25 Court. Okay?

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1 Do you remember when we were at trial and there was
2 that issue of whether I was going to send a thousand grams to
3 the jury for Mr. Jones or for Mr. Brown -- Mr. Jennings? Do
4 you remember that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: That was the issue I was dealing with,
7 because the 1,000 grams of heroin was under 21 United States
8 Code, Section 841(b)(1)(A), and that has a mandatory minimum
9 sentence of ten years. And so that's why I had to make a
10 judgment as to whether to send that to the jury.

11 And remember with regard to Mr. Jones, I said there
12 wasn't sufficient evidence? I didn't send any drug weight to
13 the jury. So there's no mandatory minimum.

14 And then with Mr. Jennings, I sent a thousand grams
15 to the jury, but the jury didn't find a thousand grams.
16 Remember that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And so that's -- that's why -- that's
19 why there was no mandatory minimum set forth in the statute
20 applicable to any of the defendants in this case.

21 And that's why those cases you're talking about
22 where the jury has to make a finding of drug weight don't
23 apply here, because we're outside of the realm of mandatory
24 minimums, and we're just talking about guidelines. And the
25 guidelines findings are all based on a preponderance of the

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1 evidence and what the Court finds. Okay?

2 THE DEFENDANT: Well, you say tomato, I say tomato.

3 THE COURT: No, I say what the law is.

4 THE DEFENDANT: Lastly, before trial started,
5 remember the government said that they were not seeking for
6 any enhancements? And the PSR proved different.

7 THE COURT: Well, the government -- I believe what
8 the government was talking about -- well, I don't know what
9 they were talking about, but this is -- there are several
10 kinds of enhancements. There's statutory enhancements and
11 then there's guidelines enhancements. And one of the
12 things -- I think what we were talking about is the
13 enhancement under 21 United States Code, Section 841. And
14 that is for folks who have a prior drug conviction. If you
15 get a conviction and you have a prior drug conviction, that
16 can double your penalties. Okay? That's the enhancement
17 that the government was talking about prior to trial when it
18 said -- I'm sure I asked them, is there any 841s in this
19 case? And they have not filed any 841s except for as to
20 Mr. Jennings.

21 You did file one as to Mr. Jennings, didn't you,
22 Mr. Hoffman?

23 MR. HOFFMAN: Yes, Your Honor.

24 THE COURT: There was no 841s as to -- no 841
25 statutory enhancements as to Mr. Brown?

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1 MR. HOFFMAN: I believe that's correct, Your Honor.

2 THE COURT: That's correct. Okay. All right.

3 That's what that referred to, Mr. Brown. Okay?

4 THE DEFENDANT: All right. Thank you.

5 THE COURT: All right. Thank you.

6 All right. Mr. Hoffman, let's hear from you.

7 Essentially, Mr. Brown makes the same arguments that the
8 other defendants made in their cases this morning. One goes
9 to drug weight; secondly goes to the role. Okay? He argues
10 he shouldn't get what the PSR pegged as a three-level
11 increase for a supervisor. He believes he should get a
12 two-level decrease as a minor participant.

13 Now, Ms. Cilek, did the original presentence report
14 that was sent to Mr. Brown have a role adjustment in it?

15 PROBATION OFFICER: Yes, it did, Your Honor. Three
16 levels.

17 THE COURT: Three levels to start with?

18 PROBATION OFFICER: That is correct.

19 THE COURT: Okay. All right. So, Mr. Hoffman,
20 would you like to present evidence, or how would you like to
21 proceed?

22 MR. HOFFMAN: Your Honor, we're going to call
23 Special Agent Farr to the stand.

24 THE COURT: All right.

25 SPECIAL AGENT JOHN FARR, CALLED BY THE GOVERNMENT, SWORN

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1 DIRECT EXAMINATION

2 BY MR. HOFFMAN:

3 Q Sir, you are Special Agent John Farr with the FBI?

4 A Yes, sir.

5 Q You're the lead federal case agent on the investigation
6 of the Mad Stone Bloods, and specifically this defendant?

7 A Yes, sir.

8 Q A moment ago, did you hear the evidence elicited from
9 Corey Owens on the stand concerning the drug weight
10 attributable to him, his personal involvement?

11 A Yes, sir, I did.

12 Q Next question, slightly different topic. During the
13 course of your investigation, did you interview, did you
14 speak with, cooperating defendants?

15 A Yes, sir.

16 Q Was one of those defendants Anthony Day, a/k/a Rokko?

17 A Yes, sir, it was.

18 Q During your meetings with Anthony Day, did he ever make
19 statements to you about narcotics dealing?

20 A Yes, sir, he did.

21 Q Did he make statements to you about narcotics dealing by
22 this defendant, Terrance Brown?

23 A Yes, sir.

24 Q What did he say?

25 A He had quite a bit to say about it. The first thing he

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1 spoke about was the dealings that he himself personally had
2 with Mr. Brown. He also spoke about dealings he had with
3 other MSB members.

4 Q Who had with other --

5 A I'm sorry, that Mr. Day had with other MSB members.

6 Q Okay.

7 A Further, Mr. Day discussed conversations that he had had
8 after incarceration with some of the other co-defendants in
9 the case regarding narcotics.

10 Q Did Mr. Day make any statements about drug dealing
11 between Mr. Brown and Mr. Owens?

12 A Yes.

13 Q Okay. And what was that, generally?

14 A Mr. Day indicated that Mr. Brown and Mr. Owens were
15 selling marijuana.

16 THE DEFENDANT: Judge, I want to object to hearsay.
17 He keeps saying -- he's talking about Mr. Day. Mr. Day could
18 have come here and testified for them himself. It's hearsay.

19 THE COURT: Okay. I'm going to overrule the hearsay
20 objection because this is a sentencing hearing, and under the
21 federal rules of evidence, they do not apply to this
22 sentencing hearing. And I'm -- but you are able to
23 cross-examine him.

24 So hearsay is admissible. In fact, much of the
25 presentence report is information gleaned from other places.

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1 It is regular and routine that the Court considers this kind
2 of information in sentencing. In fact, the guidelines talk
3 about the Court considering all manner of information at
4 sentencing.

5 Thank you for your objection. I overrule it.

6 Please proceed.

7 BY MR. HOFFMAN:

8 Q Again, what did Mr. Day tell you about drug dealing
9 involving Defendant Terrance Brown and Corey Owens?

10 A Mr. Day indicated that Mr. Day -- or that Mr. Brown and
11 Mr. Owens were selling marijuana together. He also indicated
12 that there was a specific incidence after incarceration.

13 Q First of all -- first of all, just to break it down --

14 A Yes, sir.

15 Q -- so Mr. Day confirmed for you that Defendant Terrance
16 Brown and Corey Owens were selling marijuana together?

17 A Yes, sir.

18 Q Okay. And then please continue. I just wanted to unpack
19 it.

20 A Sure. Further than that, Mr. Owens had a conversation
21 with Mr. Day that Mr. Day relayed to myself. That
22 conversation had to do with a state warrant that was served
23 by the Norfolk Police Department in September of 2013, the
24 same day that Mr. Owens and Mr. Brown were arrested in
25 Norfolk.

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1 Q What did he tell you about that?

2 A What Mr. Day said was that police seized a quantity of
3 marijuana at Mr. Owens' house on the day when Mr. Owens was
4 arrested by the Norfolk PD, and that later, Mr. Brown
5 approached Mr. Owens and told Mr. Owens that he, meaning
6 Mr. Brown, expected Mr. Owens to pay him, meaning Mr. Brown,
7 for the marijuana which was seized, because some of it was
8 his.

9 Q And do you know how Mr. Owens reacted to Defendant
10 Terrance Brown's demand that Owens pay him for the marijuana
11 that the police had taken from Corey Owens' house?

12 A Mr. Owens told Mr. Day that he, meaning Mr. Owens, did
13 not pay Mr. Brown.

14 THE COURT: Do you know how much was seized?

15 THE WITNESS: Not off the top of my head, sir. I do
16 know that there was marijuana and cocaine that was seized
17 from Mr. Owens' house, along with two guns, on that day. But
18 without checking the file, sir -- I can check the file if
19 you'd like. Without checking the file, I can't tell you the
20 exact amount.

21 THE COURT: Okay.

22 BY MR. HOFFMAN:

23 Q In the course of your investigation, did any other
24 witnesses corroborate a drug distribution relationship
25 between Defendant Terrance Brown and Corey Owens?

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1 A Yes.

2 Q Was another one of those witnesses Adrienne Williams?

3 A Yes.

4 Q You spoke with her about this?

5 A Yes.

6 Q And what did she say about that?

7 A She stated that Mr. Brown and Mr. Owens sold marijuana
8 together, and that prior to their arrest in 2013, they spent
9 a lot of time together, but then following that, following
10 Mr. Owens' arrest, specifically in 2013, that Mr. Owens spent
11 less time with Mr. Brown after that, at least in the presence
12 of Ms. Williams, because of the fact that Mr. Owens became
13 convinced that Ms. Williams was working for the government.

14 Q I'm going to shift topics and talk about Defendant
15 Brown's -- evidence of which you are aware concerning
16 Defendant Brown's leadership position, leadership role, in
17 the gang.

18 Are you familiar with one of the FBI electronic
19 surveillance recordings that is 1D76?

20 A Yes, sir, I am.

21 Q And just as brief background for the Court, what was
22 going on in 1D76, the part that you'll testify about in a
23 moment?

24 A This was in the summer of 2014. At the time, Mr. Brown
25 was out of custody.

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1 Ms. Williams was wearing a body wire, so it was recording
2 audio, no video. And Ms. Williams had a series of
3 conversations with Mr. Brown wherein Mr. Brown discussed Mad
4 Stone Bloods business; Mr. Brown discussed his own criminal
5 activity, and a variety of other related criminal conduct.

6 Q So it's a recorded conversation being recorded by
7 Adrienne Williams as a confidential informant, a conversation
8 between her and Defendant Terrance Brown?

9 A That's correct. There were other individuals on the tape
10 as well, but those were the two primary participants.

11 Q And at some point during that recording, did Defendant
12 Brown make any statements about having scraps under him?

13 A Yes, sir, he did.

14 Q And, generally, what did he say in that regard?

15 THE COURT: Is this the 17 scrap phone call?

16 THE WITNESS: Yes, sir. Yes, sir. It's a body
17 wire, sir, but you're correct.

18 BY MR. HOFFMAN:

19 Q Did he also --

20 THE COURT: I'm sorry. This is the second time
21 today I've said "phone call" when it was an in-person
22 meeting, and I apologize for that.

23 It was a recording of Mr. Brown saying he had 17
24 scraps under him?

25 THE WITNESS: That's correct, sir.

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1 THE COURT: Do you remember the date of that? Was
2 it the summer of 2014?

3 THE WITNESS: Summer of 2014, sir.

4 THE COURT: Thank you.

5 BY MR. HOFFMAN:

6 Q Special Agent Farr, during that recording, did Mr. Brown
7 make any statements about his title?

8 A Yes, sir, he did.

9 Q What did he say?

10 A He stated that he was the godfather of the Mad Stone
11 Gangsters.

12 Q Let's shift topics and talk about another cooperating
13 defendant, Shawn Smith.

14 A Yes, sir.

15 Q Did you have conversations in your investigation with
16 Shawn Smith?

17 A Yes, sir, I did.

18 Q Did Shawn Smith make statements to you about Defendant
19 Terrance Brown?

20 A Yes, sir.

21 Q Did he make any statements to you about Defendant
22 Terrance Brown coming to New York?

23 A Yes, sir, he did.

24 Q Generally speaking, what did he say, to the best of your
25 recollection?

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1 A Mr. Smith advised that Mr. Brown traveled to New York and
2 met with a high-ranking Mad Stone Bloods leader who was
3 incarcerated there. That individual's name is Marcus
4 Telesford; he goes by Mad Dog.

5 Mr. Brown, according to Mr. Smith, came to New York, met
6 with Mad Dog/Mr. Telesford, at the correctional facility in
7 which Mr. Telesford was housed, at which point Mr. Telesford
8 granted Mr. Brown control of the Mad Stone Gangsters in
9 Virginia, which Mr. Telesford controlled.

10 Q So, just to break it down for the Court a little bit, did
11 Shawn Smith say he had conversations with Defendant Brown
12 sometime after the meeting between Defendant Brown and Mad
13 Dog/Mr. Telesford?

14 A Yes, sir. He was in communication with both.

15 Q Okay. And Shawn Smith learned that Mad Dog/Mr. Telesford
16 had provided some type of rank to Defendant Terrance Brown in
17 Virginia, right?

18 A That's correct, sir.

19 Q I want to shift topics again and talk about the shooting
20 of Olander Jordan. Do you recall that?

21 A Yes, sir, I do.

22 Q And that involved Terrance Brown and Michael Dove,
23 correct?

24 A That's correct, sir.

25 Q The crime that occurred that evening, did it actually

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1 begin as a -- did they intend -- how did it begin? Explain
2 it to the Court, please.

3 A They intended to rob a narcotics distributor who lived in
4 the Aspen Street area of Norfolk. They had arranged a
5 plan -- which is recorded, by the way -- where they discussed
6 basically doing a strongarm home invasion on that individual.
7 That's the individual in the wheelchair that was selling
8 high-end marijuana in the Norfolk area.

9 Q So the act of violence that ended up being the OJ
10 shooting --

11 A Yes, sir.

12 Q -- started out as a plan, as a conspiracy, to rob a drug
13 dealer?

14 A That's correct, sir.

15 Q And one of the members of that plan, one of the members
16 of that conspiracy, was Defendant Terrance Brown?

17 A That's correct, sir.

18 THE COURT: And I remember hearing all the testimony
19 about -- was Olander Jordan, was he the one who was sitting
20 on the hood of his car and these guys came along and they
21 tried -- Mr. Dove, Mr. Brown came along and tried to rob him?

22 THE WITNESS: That's correct, sir.

23 THE COURT: And he took off?

24 THE WITNESS: Yes, sir.

25 THE COURT: And then they shot him?

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1 THE WITNESS: In the back, yes, sir.

2 THE COURT: In the back, about seven times?

3 THE WITNESS: That's correct, sir, after pistol
4 whipping him twice in the face.

5 THE COURT: And then they laughed about it on a
6 subsequent phone call?

7 THE WITNESS: They laughed about it on a body wire,
8 yes, sir.

9 THE COURT: On a body wire. Sorry. I keep getting
10 phone call and body wire mixed up.

11 BY MR. HOFFMAN:

12 Q I want to shift topics again. During your investigation,
13 did you learn about an attempted drug house robbery --

14 THE COURT: But just so I understand, this Olander
15 Jordan robbery started as a robbery related to the drug
16 dealing?

17 THE WITNESS: Yes, sir, that's correct. The
18 intent -- Mr. Dove and Mr. Brown had gotten out of the car
19 which Ms. Williams was driving.

20 THE COURT: Yeah, I remember that.

21 THE WITNESS: They walked towards Aspen Street,
22 crossed over the train tracks, and at that point, for
23 whatever reason, they decided not to rob that place.
24 According to Ms. Williams' debrief of the incident, Mr. Brown
25 contacted Ms. Williams and said, "That's a no-go."

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1 And then on the way back -- if you recall the
2 transcript, sir, of 1D68, Mr. Dove and Mr. Brown discussed
3 what happened on the way back; that they happened across
4 Mr. Jordan, who was randomly sitting on his car, and as they
5 walked down the middle of the street, if you recall,
6 Mr. Brown, speaking on 1D68, sir, became perturbed that Mr.
7 Jordan was not turning around and paying attention, at which
8 point they decided to rob him. And Mr. Brown, on his portion
9 of that conversation, states clearly that Mr. Brown believes
10 that he, meaning Mr. Brown, forced Mr. Dove to do it.

11 THE COURT: I remember that. I remember that
12 evidence from the trial.

13 BY MR. HOFFMAN:

14 Q And at that time, did Mr. Brown have a higher rank than
15 Mr. Dove, or did Mr. Dove have a higher rank than Mr. Brown?

16 A Mr. Brown had a higher rank than Mr. Dove.

17 Q Shifting topics, during your investigation, did you learn
18 about an attempted robbery of a drug house involving
19 Defendant Terrance Brown and some others?

20 A Yes, sir.

21 Q Could you briefly summarize that evidence for the Court?

22 A Yes, sir. We came across this information from two
23 different sources. One was Mr. Owens and one was Mr. Day.
24 Both described the same situation, which was a robbery that
25 occurred -- or it was an attempted robbery.

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1 Q Armed, correct?

2 A They were armed, yes, sir. I'll tell the story.

3 Mr. Owens, Mr. Brown, Mr. Dove, and another individual --
4 Mr. Owens nor Mr. Day knew his name, to the best of my
5 recollection, or they couldn't recall his name at that
6 time -- they were aware of an individual who was a high-end
7 drug dealer in Norfolk that allegedly had between 40 and
8 \$50,000 in cash at his residence. A plan was developed to do
9 a strongarm home invasion and steal that money.

10 THE COURT: So again a drug dealer?

11 THE WITNESS: That's correct, sir, a drug dealer
12 with 40 to \$50,000 in cash in his residence.

13 THE COURT: Okay.

14 THE WITNESS: Mr. Brown, Mr. Dove, Mr. Owens, and
15 the other individual were approaching through the backyard of
16 this individual's residence. It was nighttime.

17 Mr. Owens' recollection and Mr. Day's recollection
18 from hearing this story from others was the same: That
19 Mr. Brown, Mr. Dove, and the third individual were -- they
20 were running tree to tree, and as they approached the back of
21 the house, Mr. Owens was also running tree to tree, but
22 Mr. Owens was spotted by an individual who was looking out
23 the back, at which point kind of an alarm was raised inside
24 of the house and they had to bail out; they had to not do it.

25 So that's why that didn't go, that robbery was not

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1 completed, because the inhabits of the house were -- they
2 spotted Mr. Owens.

3 BY MR. HOFFMAN:

4 Q But it was attempted, in the sense that they put plans
5 into motion?

6 A Absolutely, sir. And they were armed as well, according
7 to Mr. Owens and Mr. Day.

8 THE COURT: Was that the house that they shot up?

9 THE WITNESS: No, sir, different house altogether.

10 THE COURT: It was a different house that they shot
11 up?

12 THE WITNESS: That's correct, sir.

13 THE COURT: I remember the house being shot up.
14 There was something about somebody saw them doing something,
15 and so -- tell me about the house that was shot up.

16 THE WITNESS: Sir, the incident that you're
17 referencing has to do with Mr. Day and Mr. Brown.

18 Mr. Day lived next door to another family. Mr. Day
19 had some dogs in the back of his house that were being loud,
20 and he wasn't supposed to have dogs there in the first place,
21 at which point his next door neighbor called Mr. Day's
22 landlord and got him evicted from that residence.

23 Mr. Day, who at that time outranked Mr. Brown, was
24 speaking to Mr. Brown about this incident and expressing how
25 perturbed he was at that situation, at which point Mr. Brown

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1 said, according to Mr. Day, "Do you want me to go ahead and
2 handle that?" Mr. Day's recollection is he said, "It is what
3 it is," which Mr. Day admitted was a tacit admission. I
4 believe Mr. Day spoke on this in trial.

5 Later, Mr. Day was with his former girlfriend when
6 Mr. Day's former girlfriend received a telephone call. At
7 the conclusion of that phone call, Mr. Day's former
8 girlfriend stated to Mr. Day, "Hey, somebody just came and
9 shot up your neighbor's place."

10 Mr. Day said that he immediately knew that it was
11 Mr. Brown, and seconds later received a telephone call from
12 Mr. Brown, and Mr. Brown said to Mr. Day, "Hey, I handled
13 that for you, Bro."

14 BY MR. HOFFMAN:

15 Q And we heard the evidence of one of the victims who was
16 in the house at trial. He testified. Do you recall that?

17 A Yes, sir, I do. There was an elderly couple, a
18 seven-year-old boy, and another man in his 30s in the house
19 at the time of the shooting.

20 Q The young boy was asleep in the back?

21 A That's correct, sir.

22 THE COURT: And we also heard from Olander Jones?

23 THE WITNESS: Yes, sir, we did.

24 THE COURT: He came here, but I didn't look at the
25 scars on his back. The government wanted me to have him take

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1 his shirt off, but I said no.

2 Okay. Go ahead, Mr. Hoffman.

3 MR. HOFFMAN: And, Your Honor, I think we would
4 move -- I did it earlier, I think, but I just want to make
5 sure that we move to admit the statement of facts from Corey
6 Owens for the Court to consider that as well.

7 That's all I have for Special Agent Farr, Your
8 Honor.

9 THE COURT: Okay.

10 (Government's Exhibit 1 admitted)

11 THE COURT: Mr. Brown, would you like to ask Special
12 Agent Farr any questions, sir?

13 THE DEFENDANT: Yes.

14 CROSS-EXAMINATION

15 BY THE DEFENDANT:

16 Q How you doing, Mr. Farr?

17 A Good afternoon, sir.

18 Q You've interviewed Corey Owens before, correct?

19 A Twice, yes, sir.

20 Q And you said that Mr. Owens told Rokko that -- what did
21 you say about the drugs? That we sold drugs together?

22 A That was Mr. Day's statement, sir.

23 Q Oh, Mr. Day's statement?

24 A Yes, sir, that's correct.

25 Q And you said Ms. Williams also told you that --

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1 A Yes, sir, that's correct.

2 Q Let me finish the question, please.

3 But you said you interviewed Mr. Owens before?

4 A Yes, sir.

5 Q So did you ask him about this incident?

6 A Yes, sir.

7 Q And what did he say?

8 A Mr. Owens said that -- I want to be specific, because he
9 had a very specific way of saying this -- he didn't know
10 anything about "your" drug activity.

11 Q So could it possibly be a lie, if the person who is there
12 talking about it, you asked him, and he's saying a whole
13 different answer?

14 A Are you asking for my opinion, sir?

15 Q Yeah, I'm asking for your opinion.

16 A I believe Mr. Owens was lying to me.

17 Q All right. And are you aware on the indictment, the
18 indictment reads that I am the acting godfather for Mad Stone
19 Empire and currently holding rank?

20 A Yes, sir.

21 Q Then you said there was a -- the video said something --
22 the audio said something about me being a godfather of Mad
23 Stone Gangsters?

24 A That's correct.

25 Q So when did me being an acting godfather of Mad Stone

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1 Empire take the course?

2 A Well, these were two separate recordings, sir. So the
3 recording in which you advised that you have the rank of
4 godfather of Mad Stone Gangsters was in the summer of 2014.

5 In the summer of 2015 -- I believe you were arrested in
6 August of '15. The summer of 2015, there are a separate set
7 of recordings which were turned over in discovery, where you
8 are discussing the fact that you are the godfather of Mad
9 Stone Empire, that you are Empire.

10 Q Right. So do you know the difference between an acting
11 stain versus a stain?

12 A Yes, sir, I do.

13 Q So -- but you just said I'm Empire, but then you said on
14 an indictment that I'm acting GF of Empire?

15 A Yes, sir, that's correct.

16 Q So isn't it a difference between acting GF and GF?

17 A I believe there is a difference.

18 Q What is the difference?

19 A So the godfather is an individual who has been given that
20 official stain by, normally, the person that -- it would
21 either be Mr. Hubbert or Papa Don, usually.

22 An individual that is acting, there's a couple different
23 ways they can get it. The first way, the most common way, is
24 that if the godfather himself is locked up, say, in this
25 case, in the situation where Sosa/Darrell Green was

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1 technically the godfather of Mad Stone Empire, but Mr. Green
2 was incarcerated at the time. I believe at that time he was
3 in Sussex; I think he was in Sussex I. You, however, were
4 not incarcerated at that time. You were on the street.

5 Therefore, as his number two on the street, you were the
6 acting godfather. You had the streets from that point.

7 Q So is acting godfather explained in the indictment?

8 A I don't remember if it's explained or not, sir. It's a
9 long indictment, and I didn't write it.

10 Q So you just expect us to believe that what you're saying
11 is correct, and it's not even in the indictment?

12 A You asked me a question. I'm providing an answer, sir.

13 Q And how do we know that you're correct on what you're
14 saying right here?

15 A I -- I leave that to the judge to decide.

16 Q And you spoke on Mr. Day; you said that he said that I
17 shot up his neighbor's house?

18 A Yes, sir, that's correct.

19 Q And is it possible that somebody else could have did the
20 shooting and he just blamed me?

21 A I suppose that that is possible, sir.

22 Q Because you are aware that he said that I supposedly had
23 threatened his life, correct?

24 A I'm trying to remember if -- that may be correct, sir.

25 There were a lot of threats that went on in this case. My

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1 recollection isn't that you threatened his life. There was a
2 threat to Mr. Day's life, sir, but my recollection is not
3 that it was from you.

4 Q Okay. You said in the summer of 2013 that I had higher
5 rank than Mr. Dove?

6 A Yes, sir, that's my recollection. That's correct.

7 Q And how do you know that?

8 A By listening to the tapes of the Millas.

9 Q By what?

10 A Listening to the tapes of the Millas, sir, the meetings
11 that occurred of the Mad Stone Bloods in the park, in Craig
12 Park.

13 Q So how many meetings took place in 2013?

14 A There was April, I think it was 29th, 2013. That was the
15 meeting where you presided over the beat-ins, sir, where you
16 had five scraps that used to be PGs, Daryl Davises, that were
17 beaten in at your direction, after which you provided MSB
18 paperwork and red bandannas to them.

19 There was one in May. There might have been two in May;
20 I'd have to go back and check the file. There was at least
21 one in June.

22 So four that I can think of in the spring and summer, off
23 the top of my head, that I was conducting surveillance of.

24 Q So what was provided at the Millas that you would think
25 that I would have more rank than Mr. Dove?

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1 A Well, you were the one doing the talking, sir, and you
2 were the one handing out the paperwork and the bandannas.

3 Q So because I was the one doing the talking, that's your
4 recollection that I had more stain?

5 A That's part of the reason, sir. You were also the one
6 directing who would beat in whom. And that's all on video
7 and audio, sir.

8 THE COURT: I'm sorry. You said who would beat in
9 whom?

10 THE WITNESS: Yes, sir, which members, which current
11 members of the Mad Stone Bloods, would be the ones to
12 physically beat in the new members, sir. That's correct.

13 THE COURT: And you're telling me Mr. Brown was
14 directing that?

15 THE WITNESS: That is exactly what I'm telling you,
16 sir.

17 BY THE DEFENDANT:

18 Q And there was females beat in at the same Milla, right?

19 A Correct, but you didn't control that. You handled the
20 male side, sir.

21 Q Yeah, but so you're saying I directed the male beat-ins,
22 and your informant directed the female beat-ins?

23 A That's correct, sir.

24 THE DEFENDANT: Thank you. No further questions.

25 THE COURT: What role did Mr. Brown have, if any,

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1 involving the distribution of controlled substances into a
2 correctional facility?

3 THE WITNESS: As Your Honor may remember, there was
4 audio played during the trial. It was a body wire
5 conversation that occurred between Ms. Williams, Mr. Dove,
6 and Mr. Brown. There were also individuals -- because it was
7 on speakerphone, there were individuals that called in.

8 This was the one where there was a young lady that
9 was not identified talking about how she didn't get paid, and
10 Mr. Brown indicated that she should have been paid.

11 And then following that, there was discussion about
12 how many times she had taken -- they called it T-shirts, how
13 many T-shirts she had taken in.

14 Following that, there was a discussion at length
15 between Mr. Brown, Mr. Dove, and Ms. Williams where they
16 discussed how much money you can make with marijuana on the
17 inside, and the discussion of that that individual should
18 have been paid, meaning the female.

19 Now, she confirmed on that audio, sir, that she had
20 taken one or two -- I'd have to listen to it again -- at
21 least one or two runs in and was going to make another one.

22 Additionally, sir, there was a -- there's quite a
23 bit of other evidence that was not introduced at trial. If
24 you'd like me to discuss it, I will.

25 THE COURT: With regard to Mr. Brown and

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1 correctional facilities?

2 THE WITNESS: Yes, sir.

3 THE COURT: Okay. What was that?

4 THE WITNESS: So there were several other
5 cooperators that debriefed regarding it. One was
6 Ms. Williams that was discussing -- there came a point in
7 time when Ms. Williams was asked to bring narcotics into an
8 institution. Ms. Williams, before she was recruited by me to
9 be a source for the government, had actually started to make
10 an attempt to get the drugs in to Mr. Hubbert, but then that
11 got waved off. It didn't work because the car broke down.
12 That got waved off.

13 Following that, Mr. Hubbert and Blood Sport/Carl
14 Tolbert, according to Ms. Williams, contacted Mr. Brown and
15 asked Mr. Brown to start assisting with that as well, meaning
16 getting narcotics in to, specifically, Mr. Tolbert.

17 Darrell Green, who goes by Sosa, also goes by
18 Messiah -- different than Lady Messiah, sir -- also was the
19 one that was involved in receiving the narcotics that
20 Mr. Brown was getting into Sussex, which I believe is what
21 the young lady was talking about on the recording that was
22 played at trial.

23 THE COURT: Okay. What do you think -- based on all
24 of your investigation, what do you think is a reasonable
25 estimate of the drug weight attributable to Mr. Brown?

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1 THE WITNESS: I believe that Mr. Brown and Mr. Owens
2 were dealing narcotics together. I believe that --

3 THE COURT: What do you base that on?

4 THE WITNESS: I base that on the amount of time they
5 spent together; their interactions at the meetings that they
6 had together; the free manner in which they discussed their
7 activity.

8 Indeed, in the April 2013 meeting, after Mr. Brown
9 hands out the bandannas and the paperwork, there's a
10 discussion in which -- primarily, it's Mr. Day, but Mr. Brown
11 also participates, where Mr. Day discusses at length that
12 each MSB member has a lane, and Mr. Day explains that his
13 lane is dealing narcotics, and there are other people that do
14 that, and he says, you know, We support each other, so if you
15 know somebody that needs something, then you steer them to
16 the right person; you steer them to this person or that
17 person.

18 There's a discussion that, you know, Mr. Brown's
19 primary lane is robbery. In fact, we have another
20 conversation that's recorded where Mr. Brown goes further in
21 depth on that.

22 But my point, sir, is that the MSB members,
23 especially at the beginning, spend a lot of time discussing
24 their criminal activity because of the amount of trust that
25 was there. It was like a family, and they spoke about it at

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1 great length.

2 Especially in the summer of 2013, there was a time
3 period where Mr. Brown, Mr. Dove, and Ms. Williams spent
4 literally almost 24 hours a day together. That was in the
5 July going into August timeframe, which was the time of the
6 Ink Junkeez robbery and when Mr. Jordan was shot. And there
7 were a multitude of recordings from that time where they are
8 constantly discussing criminal activity.

9 When talking about, on 1D68, the setup for where
10 they're discussing the plan to rob the Aspen Street drug
11 dealer, Mr. Brown, Mr. Dove, and Ms. Williams are all talking
12 about drug prices. All three of them are discussing it
13 together. There is certainly no indication that any of the
14 three of them were saying, Oh, I don't know anything about
15 that.

16 So I think that -- it is my opinion that the MSB
17 functioned as an extremely tight-knit family unit, especially
18 at the beginning. They prized themselves on that.

19 The best way that I can describe it is, imagine your
20 closest friends. Is there anything they don't know about
21 you? I can't speak to you personally, sir, but my closest
22 circle of friends knows almost everything about me. And at
23 that point in time, that's indeed what the MSB in the Norfolk
24 area was. They were a tight, tight circle, and they prided
25 themselves on that.

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1 THE COURT: I think I was asking you about drug
2 weight.

3 THE WITNESS: Oh, I'm sorry, sir. You asked why I
4 believed?

5 THE COURT: Yeah.

6 THE WITNESS: I believe it based on cooperator
7 debrief testimony. I believe it based on the recordings that
8 I've heard. I believe it based on listening to their
9 interaction, listening to them openly discuss criminal
10 activity, sir.

11 THE COURT: This was the issue of Brown and Owens
12 selling marijuana together?

13 THE WITNESS: That, and just open discussions. You
14 know, remember that Mr. Day also sold to both Mr. Brown and
15 Mr. Owens.

16 THE COURT: Okay. Do my questions prompt any
17 further questions from the government?

18 MR. HOFFMAN: One question, Your Honor.

19 THE COURT: All right.

20 REDIRECT EXAMINATION

21 BY MR. HOFFMAN:

22 Q Special Agent Farr, a moment ago you testified about
23 Adrienne Williams, before she decided to cooperate with the
24 government, was making -- attempting to make a drug delivery
25 to a jail, correct?

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1 A Yes, sir.

2 Q You testified that the delivery was going to Hasin
3 Hubbert?

4 A Yes, sir.

5 Q Was it going to Larry Boone, or was it going to Hubbert?

6 A It was going to be Hubbert, and then when Boone found out
7 about it, he shut it down after the fact.

8 Q He waved it off?

9 A That's correct,

10 THE COURT: That's right. I think she testified at
11 trial she was tight with Larry Boone, Adrienne Williams was,
12 right?

13 THE WITNESS: Yes, sir. She was his -- she was his
14 direct scrap.

15 MSB can be confusing, because there's a -- there can
16 be a difference in terms of somebody that is -- if I was in
17 MSB and I directly recruited Mr. Brown, Mr. Brown would be my
18 scrap. He would be directly underneath me. That can be
19 different from rank. So there could conceivably come a
20 time -- even if I got Mr. Brown into MSB, there could
21 conceivably come a time where Mr. Brown could have higher
22 rank than me. He would still and always be my scrap, because
23 I brought him into the life, but there could conceivably be a
24 time where Mr. Brown outranked me, sir.

25 THE COURT: All right.

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1 Mr. Brown, do you want to ask Agent Farr any other
2 questions prompted on my questions?

3 THE DEFENDANT: No, thank you, sir.

4 THE COURT: Okay. Thank you, Special Agent Farr.
5 You may stand down.

6 All right, Mr. Hoffman, I think where we were was
7 Mr. Brown had made a number of objections to the PSR, and
8 particularly, we were focused on the objections as to drug
9 weight and role in the offense. And so I want to hear what
10 the government's argument is with regard to that.

11 MR. HOFFMAN: Yes, Your Honor. I'll just tick down
12 through them.

13 Our recommendation is we support probation's
14 analysis as to drug weight. I believe it's a level 24.
15 And --

16 THE COURT: Okay. How do you get there?

17 MR. HOFFMAN: It's just what Special Agent Farr did.
18 I think that, based on some of the evidence that you've heard
19 today, the Court should hold Defendant Brown responsible for
20 the drug distribution activities of Corey Owens, specifically
21 the marijuana.

22 THE COURT: What about Mr. Owens' testimony here
23 today that that wasn't true? That's what Mr. Owens --
24 Mr. Owens said that wasn't true, "I didn't deal drugs with
25 you."

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1 MR. HOFFMAN: I don't know. I was surprised to hear
2 him say that. I'm not sure I find that credible. And it --
3 to me, it conflicts with his signed statement of facts. And
4 I asked him -- the reason I just asked him about that was to
5 see if he would, you know, again deny it. And he did not.

6 THE COURT: Well, is there anything in his signed
7 statement of facts that says he was dealing drugs with
8 Terrance Brown?

9 MR. HOFFMAN: I don't think so, Your Honor.

10 It says that he was combining, conspiring,
11 confederating with other MSB members. I don't believe it
12 says Terrance Brown. It just references other MSB members,
13 Your Honor.

14 THE COURT: Okay.

15 MR. HOFFMAN: But our argument is, by a
16 preponderance of the evidence, the testimony that Special
17 Agent Farr provided about the information from Anthony Day
18 and the information from Adrienne Williams, both of them
19 said -- both of them provided information to the government,
20 to Special Agent Farr, that the two, Corey Owens and
21 Defendant Brown, were working together, selling drugs
22 together, selling marijuana together. They were spending
23 lots of time together, according to Adrienne Williams, that
24 summer.

25 And I think when you consider the other, you know,

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1 corroborative information, you know, the controlled buy, you
2 know, with Terrance Brown and, you know, the other general
3 involvement, there were other bits and pieces, you know, of
4 evidence in the trial about his involvement in smaller drug
5 sales, buying or selling, I think that corroborates the
6 general nature of his conduct as a drug dealer, just kind of
7 involved. But I would say that the --

8 THE COURT: Well, remind me about the controlled buy
9 evidence.

10 MR. HOFFMAN: This was the -- we had the undercover
11 officer come and testify that -- remember, that was when he
12 was scarred for his life, when they ended up kind of like
13 almost in a shouting match. Again, I don't have the
14 transcript in front of me, but I believe the undercover
15 testified that Terrance Brown was shouting at him and said he
16 was going to kill him, and the undercover was trying to
17 figure out what to do, and it appeared that Defendant Brown
18 had some muscle outside the car. He thought he saw a gun on
19 that individual. He saw a bulge in Terrance Brown's waist
20 which he thought was a gun also. But then the undercover
21 officer tamped everything down, did some quick thinking and
22 talking, and Terrance Brown was fine after that, according to
23 the UC, and the deal happened. I don't remember exactly what
24 the deal was for. I think it was pills and marijuana, or
25 pills and crack. It was not a large amount.

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1 I think that she -- I think that Ms. Cilek addressed
2 it in the PSR. It was in paragraph 143. It was. It was
3 marijuana. 21.9 grams of marijuana and nine Klonopin
4 tablets. And then I would remind the Court that --

5 THE COURT: I see that. That's the -- okay.

6 MR. HOFFMAN: Paragraph 143.

7 And Terrance Brown was not arrested that day.
8 Terrance Brown agreed to another drug deal, I think it was
9 the next day, at which time they took him into custody.

10 So I think that probation -- that Probation Officer
11 Cilek gets it right here in paragraph 143. I think the
12 evidence presented today and the evidence presented at trial,
13 by a preponderance, places the drug weight at a level 24.

14 In terms of the leadership, we have the evidence
15 that was adduced at trial and the evidence that was, again,
16 adduced today regarding Defendant Brown's recorded statements
17 about having 17 scraps beneath him. He bragged that he was
18 the godfather of the Mad Stone Gangsters, I believe. He also
19 stated he was acting godfather or the godfather of Mad Stone
20 Empire, and I believe his statements were something along the
21 lines of, you know, "I am Empire," or "I am Mad Stone
22 Empire." That was in a separate audio recording captured by
23 law enforcement.

24 As the Court has also heard, Defendant Brown kind of
25 coordinated and directed activity at some of these Millas,

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1 the gang meetings. And he also took the trip to New York to
2 meet with one of the more senior MSB members out there, who
3 was Mad Dog/Marcus Telesford, in jail. And he told Shawn
4 Smith after the meeting that Mad Dog had given him some type
5 of additional rank on the streets in Virginia.

6 We believe that evidence, Your Honor, supports the
7 enhancement, the aggravating role enhancement, of three
8 points for leadership.

9 Your Honor, in terms of the two-point bump for
10 narcotics in a correctional facility, we would rely on
11 Special Agent Farr's testimony today, and it was also
12 introduced at trial. That was the recording where Defendant
13 Brown and others were talking about whether this individual
14 had been paid for indeed smuggling narcotics into a
15 correctional facility, using coded language, of course.

16 I don't know if the Court wants me to address the
17 two-point gun enhancement and two-point, you know, violence
18 enhancement, but I think that the testimony that's been
19 provided today certainly suffices, by a preponderance of
20 evidence, to meet those enhancements.

21 THE COURT: All right. Thank you, Mr. Hoffman.

22 The Court wants to call the probation officer.

23 Ms. Cilek, come on up and be sworn, please.

24 PROBATION OFFICER SAMI CILEK, CALLED BY THE COURT, SWORN

25 EXAMINATION

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1 BY THE COURT:

2 Q Good afternoon.

3 A Good afternoon, Your Honor.

4 Q Tell us who you are and what you do.

5 A Sami Cilek, United States Probation Officer.

6 Q Let's talk about the drug weight in this case.

7 A Okay.

8 Q Okay. How did you calculate the drug weight with regard
9 to Mr. Brown in this case?

10 A Okay. Let's start with paragraph 106.

11 Q Okay.

12 A That is Anthony Day's testimony about obtaining
13 controlled substance from Willie Burroughs in New York and
14 then selling marijuana to Terrance Brown. He could not
15 recall how many times, but estimated it to be ten to 20
16 times, at 4 ounces each time.

17 Q Okay.

18 A So I took the lower amount, the 4 ounces, but the lower
19 quantity of ten times, in the light most favorable to the
20 defendant, to come up with 40 ounces.

21 Q Okay.

22 A Which is 1,134 grams.

23 Q Of marijuana?

24 A That is correct.

25 Q Okay. Go ahead.

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1 A Okay. Then I moved to paragraph 111, where a source
2 indicated Brown had purchased several 8-balls of crack
3 cocaine from Jennings. That would be -- again, in the light
4 most favorable to the defendant, I went with --

5 Q I'm sorry. Paragraph what?

6 A 111 -- I'm sorry. 122.

7 Q I thought it wasn't 111 because I couldn't find it. 122.
8 Okay.

9 A Yes. With "several," I took, again, in the light most
10 favorable to the defendant, meaning three times.

11 THE DEFENDANT: When was this discovered, Judge?
12 This didn't come out at trial. I'm just now hearing about
13 this.

14 THE COURT: I'm sorry. You'll get a chance to ask
15 her any questions that you want to.

16 BY THE COURT:

17 Q All right, Ms. Cilek. I have got it in paragraph 123.
18 Do I have a different version? When was the last time this
19 presentence report was revised?

20 A It was revised just last week.

21 Q Oh, okay. All right. So that's the paragraph that says,
22 "Around September 2014, Terrance Brown picked up a
23 confidential source and then drove to the residence" --

24 A Yes. The following paragraph should start with
25 "Cornelius Gaymon."

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1 Q Excuse me?

2 A The very next paragraph should start with "Cornelius
3 Gaymon."

4 Q Yes.

5 A Yes, that is correct. Purchased several 8-balls; so like
6 I said, that is three occasions times 3.5 grams.

7 Q Uh-huh.

8 A 10.5 grams of cocaine, that is.

9 Multiply that by 200 to come up with a marijuana
10 equivalent of 2,100 grams of marijuana.

11 Q Okay.

12 A And paragraph 128, I believe, was in the old one, which
13 was the incident with the undercover officer where he got
14 upset and he had to calm him down.

15 Q Yes.

16 A August 27, 2015. That was 19.61 grams of marijuana.

17 Okay. And lastly was the factual summary of Corey Owens.

18 Q Okay.

19 A Corey Owens was held accountable for 500 grams to 2 kilos
20 of cocaine, which I took the lesser amount of the 500 grams,
21 multiplied it by 200, which is the marijuana equivalent, to
22 come up with 100 to 400 kilos of marijuana. So I used the
23 100, the lower amount.

24 And then he was also held accountable for between 80 and
25 100 kilos of marijuana. Again, I took the 80, and came up

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1 with a 180 kilos of marijuana, and then added in the other
2 two paragraphs which we -- the other three paragraphs we just
3 described.

4 Q So the largest bulk of the drug weight attributable to
5 Mr. Brown comes through Corey Owens?

6 A That is correct.

7 Q Okay. So how much -- so it was 180 kilograms of
8 marijuana from Corey Owens; is that right?

9 A That is correct.

10 Q Okay. And so you add that to those other paragraphs, and
11 that gives you a total drug weight of what?

12 A I would have to have a calculator.

13 Q Looks to be somewhere in the 183 range?

14 A 2.3 -- yes, 182.3.

15 Q Okay. And that is under --

16 A 2D1.1(a)(8), which is a base offense level of 24.

17 Q 2D1.1(a)(8), base offense -- let me see. Let me look.

18 Yeah, that's between 100 and 400 kilograms of marijuana.

19 That's an offense level of 24. Okay.

20 A Yes.

21 THE COURT: Okay. Anybody want to ask Ms. Cilek any
22 questions?

23 Mr. Hoffman, do you want to ask Ms. Cilek any
24 questions?

25 MR. HOFFMAN: No, sir. Thank you.

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1 THE COURT: Mr. Brown?

2 THE DEFENDANT: Yeah, just one.

3 THE COURT: Come on up.

4 CROSS-EXAMINATION

5 BY THE DEFENDANT:

6 Q How you doing, Ms. Cilek?

7 A Fine. How are you?

8 Q I'm good.

9 You said that Terrance Brown picked up a confidential
10 source and he drove to the residence of Clifford Jennings in
11 Norfolk and had connections for both heroin and crack, and
12 that your source indicated that Brown had purchased several
13 8-balls of crack cocaine from Jennings.

14 How did you discover that? How was that brought to you?

15 A We listened in on the entire jury trial, and then we also
16 had a copy of this discovery that you were provided with. We
17 were provided with that same copy of discovery.

18 Q Well, this audio recording wasn't in the jury trial.

19 A Then it would have been in discovery.

20 Q It wasn't in the discovery, either.

21 A It had to have been in discovery, because I didn't make
22 it up.

23 Q So it was an audio recording. And what was on the audio
24 recording?

25 A It would have been exactly as I described in that

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1 paragraph.

2 Q So it would have been me as a speaker and the source as a
3 speaker and Jennings as a speaker?

4 A Which paragraph are you referring to?

5 Q 123.

6 A Okay.

7 Q And you see it says that "Terrance Brown picked up a
8 confidential source, drove over to Jennings' house, and the
9 source indicated Brown had purchased several 8-balls of crack
10 cocaine."

11 How did you discover that?

12 A It could have been provided to me in discovery.

13 Q Where in discovery? Was it audio or video? What?

14 A Without going back through discovery, I can't tell you
15 exactly where it came from.

16 Q So how do we know that you didn't just make it up?

17 A Why would I make up -- why would I do that?

18 Q I mean, why would you try to make me accountable for
19 Corey Owens' weight?

20 A Because, in my opinion, you and Mr. Owens were part of
21 the same co-conspiracy to distribute the same narcotics, and
22 it is part of relevant conduct that you are held accountable
23 for something that is reasonably foreseeable to you that
24 Mr. Owens was also responsible for.

25 Q In your opinion?

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1 A That is correct.

2 Q What about the law? How is somebody else's weight in
3 this sense -- Corey Owens -- how would you -- why would you
4 feel that I should be accountable, counting for the weight
5 that he confessed to having?

6 A Because I have been doing this for almost 20 years. I
7 have spent 20 years researching case law and applying the
8 guidelines in cases such as yours.

9 Q Miss, I didn't ask you for your résumé. I asked you why
10 do you feel that I should be accounting for Corey Owens'
11 weight that he already confessed to?

12 A For those reasons I've already stated: Reasonably
13 foreseeable to you because you two were acting in concert
14 together within the conspiracy.

15 Q What example that we acted in concert together? What
16 example do you have?

17 A Everything I've outlined in the presentence report.

18 Q You didn't outline anything about me and Corey Owens
19 being in concert together.

20 A We talked about Ms. Williams' testimony. We talked
21 about --

22 Q Ms. Cilek, I'm asking about me and Corey Owens, where in
23 the presentence report that you outlined that me and Corey
24 Owens is in concert together?

25 A That was brought up during testimony in the jury trial.

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1 Q No, it wasn't. It wasn't brought up in the testimony in
2 the jury trial. Corey Owens didn't even testify in the jury
3 trial.

4 A No, Ms. Williams and Mr. Day.

5 Q And it wasn't brought up then, either, Miss.

6 A Well, I can guarantee you I did not make it up.

7 Q Well, Ms. Cilek, you're trying to give me 180 kilograms
8 of marijuana, and you can't think of one example of me and
9 Owens being in concert together?

10 A Everything I expressed has been in the presentence
11 report. It's all been provided in discovery.

12 Q So are you refusing to answer the question?

13 A I'm not refusing to answer any question.

14 Q Well, give me one example.

15 A We've already had this discussion. Mr. Farr just
16 testified about it.

17 Q Ms. Cilek, you prepared the presentence report. That's
18 why I'm asking you. I'm not asking Farr. He didn't prepare
19 this. You prepared it.

20 A Yes, and it's all in the discovery.

21 Q And you're trying to give me 180 kilograms, Miss, and you
22 can't think of one example of me and Owens being in concert
23 together. I think I got all that.

24 A We've already had this discussion with Agent Farr's --
25 his testimony.

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1 THE DEFENDANT: No further questions.

2 THE COURT: Mr. Hoffman, do you have any questions
3 you want to ask Ms. Cilek?

4 MR. HOFFMAN: No, Your Honor.

5 THE COURT: Okay. Ms. Cilek, thank you.

6 PROBATION OFFICER: Thank you.

7 MR. HOFFMAN: Can the parties approach with
8 Mr. Brown, just briefly?

9 THE COURT: No.

10 MR. HOFFMAN: Okay.

11 THE COURT: You may stand down.

12 PROBATION OFFICER: Thank you, Your Honor.

13 THE COURT: Okay. All right. Yeah, Mr. Hoffman, I
14 will allow you to approach with Mr. Brown.

15 MR. HOFFMAN: It will be brief.

16 THE COURT: But is there a microphone over there?
17 We can do it right there at counsel table, right there at the
18 corner of counsel table. I will come down.

19 (Sidebar as follows:)

20 MR. HOFFMAN: Is this off the record?

21 THE COURT: There is nothing off the record.

22 Okay. Counsel for the government asked for a
23 sidebar.

24 MR. HOFFMAN: Yes, Your Honor.

25 THE COURT: So we are at sidebar. Mr. Brown is

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1 present. What would you like to tell me?

2 MR. HOFFMAN: I wanted to share this at sidebar
3 because it involves a confidential informant, former
4 confidential informant for the FBI. We did not use this
5 confidential informant at the trial, and I wanted to relay
6 this information to Mr. Brown in full candor and to the Court
7 so the Court knows it.

8 This particular confidential informant, as I
9 understand from the FBI, was closed for cause because he
10 absconded. In other words, he ran away. So we decided for
11 those reasons to not use the information that this
12 confidential informant had provided to the government. I
13 believe that's what this is from. That's what paragraph 123
14 is, because we disclosed that in discovery anyway.

15 THE COURT: Okay.

16 MR. HOFFMAN: So if the Court wants to consider that
17 or just disregard paragraph 123, I don't think it's a
18 difference.

19 THE COURT: I'm going to disregard paragraph 123.

20 MR. HOFFMAN: I wanted the Court to know that and I
21 wanted Mr. Brown to know that.

22 THE COURT: Because the government chose to
23 disregard this confidential source, I'm not going to consider
24 what's in paragraph 123 for the purposes of this sentencing.

25 THE DEFENDANT: Thank you, sir.

1320/4
1321

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1 MR. HOFFMAN: Okay. Yes, sir.

2 (Sidebar concluded)

3 THE COURT: All right. While I'm right here,
4 anything else that anyone wants to say about the guidelines
5 findings before I make my guidelines findings?

6 Mr. Hoffman?

7 MR. HOFFMAN: Nothing else, Your Honor.

8 THE COURT: Mr. Brown?

9 THE DEFENDANT: Yes, sir. Do you want me to say it
10 from right here? I just got one thing. I just want to ask
11 the Court just to please consider everything that went on
12 today, and please do the right thing.

13 THE COURT: Okay. I want to take a brief recess
14 while I consider this matter. Thank you. We'll stand in
15 recess for ten minutes.

16 THE MARSHAL: All rise.

17 (Recess, 5:01 p.m. to 5:16 p.m.)

18 MR. HOFFMAN: Your Honor, before we move along, I'm
19 sure the Court has already seen this, but I just wanted to
20 make sure the Court saw in the statement of facts Corey Owens
21 signed, with respect to the 80 kilograms but less than
22 100 kilograms of marijuana, he says at the bottom he agrees
23 that, had the matter proceeded to trial, the United States
24 would have introduced evidence related to the other facts
25 that were included as outlined above.

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1 THE DEFENDANT: Judge, can I take this time to
2 introduce my parents? The rest of my family came here with
3 them, too. Or is that not appropriate?

4 THE COURT: Sure. And I've gotten lots of letters
5 on your behalf, Mr. Brown, and I've read them all. And I
6 know your parents are people of faith, and I -- I have
7 gotten -- I got letters from folks before the trial, after
8 the trial, and I've read them all. And I have to say, it's a
9 little difficult to reconcile what I've seen in those letters
10 with the evidence I heard in this case.

11 So I'm happy to say hello to you folks. Thank you.

12 THE DEFENDANT: All right. Thank you.

13 THE COURT: You know, I said this morning at
14 Mr. Jennings' sentencing, and I'm going to say it now,
15 because I believe it to be true. I'm going to make these
16 guidelines findings in this case, I'm going to go ahead and
17 make them, based on the rules that apply to the guidelines
18 and the burden of proof and all of that, and the -- and the
19 fact that, under the guidelines, Mr. Brown is not held --
20 he's not just held accountable for drugs he actually sold
21 himself. But this is a conspiracy case, so the law requires
22 him to be held accountable for drugs not only that he sold
23 himself, but drugs that were -- that were related to the
24 jointly undertaken activity and that were reasonably
25 foreseeable to him. That's what the law requires.

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1 Everybody in drug cases in federal court thinks
2 they're only responsible for what they sold. That is not the
3 law. In a federal drug conspiracy, you are responsible for
4 what you sold and what others in the conspiracy sold, period,
5 end of story, so long as it is part of the jointly undertaken
6 activity and it's reasonably foreseeable. Okay?

7 And that's -- you know, Mr. Brown and Ms. Cilek had
8 a little argument about that from the podium in here, and
9 folks need to realize, people need to realize -- it happens
10 in every case, Mr. Brown. Folks think, Why should I be
11 sentenced based on anything other than what I did? But in a
12 federal drug conspiracy, under the law, you are responsible
13 for what you did and for what your co-conspirators did, so
14 long as it's reasonably foreseeable and it is jointly
15 undertaken activity. That's what the guidelines say. That's
16 what the law is. That's why these federal drug conspiracy
17 cases have -- drug cases have extraordinary penalties
18 associated with them.

19 So I said this this morning in Mr. Jennings' case,
20 and I'm going to say it now, too: Regardless of where I come
21 down on the guidelines in this case, I know what the sentence
22 needs to be in this case under the 3553(a) factors. I know
23 what it needs to be. And regardless of whether I found
24 Mr. Brown responsible for all the drug weight attributed to
25 him in the PSR or whether what he thinks he should be

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1 responsible for, and that is 3, 3 kilograms of marijuana, I
2 would give the very same sentence in this case, the very same
3 sentence. Not based on the guidelines. The guidelines are
4 advisory. I consider them or not. That's what *Booker* said,
5 the case you cited. I'm talking about what the United States
6 Code tells me I have to consider when I sentence people.

7 So -- and I'll get to that in a minute, after we
8 hear any additional argument, and allocution, and any
9 witnesses anybody wants to present.

10 The Court finds the -- the Court finds the
11 guidelines to be as follows: I am going to adopt the
12 presentence report in its entirety. I am going to find a
13 base offense level, based on 180 kilograms of marijuana, at a
14 base offense level of 24.

15 I did not believe Corey Owens' testimony coming here
16 into this courtroom today. I didn't believe him for one
17 minute. I found his statements to be incredible and in
18 contrast with the statements that he made when he pled guilty
19 in this case. I didn't believe him.

20 I credit the testimony of Anthony Day, and I credit
21 the testimony of Adrienne Williams, as testified to by
22 Special Agent Farr in this case, and that was that Mr. Brown
23 and Mr. Owens were selling marijuana together. I credit that
24 testimony. I fully credit it. I find it to be credible.

25 And there's reasons for that. Not only did -- and

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1 one of the things that caused me to credit that testimony was
2 when Owens and Brown were arrested following that -- that --
3 by the Norfolk police, and they seized a quantity of
4 marijuana at Owens' house, it was the testimony from Special
5 Agent Farr, who said that Brown expected Owens to pay him for
6 the marijuana seized because some of it was his. That's what
7 Owens told Day, and that's what Day told Mr. -- Special Agent
8 Farr.

9 So some of that marijuana Mr. Brown says was his
10 that was seized by the police. So, therefore, it is, without
11 question -- the marijuana that's attributable to Owens is
12 reasonably foreseeable to Mr. Brown. And so we have that
13 testimony. We have the testimony of Adrienne Williams that
14 they sold marijuana together. I find that testimony to be
15 credible.

16 I do not find the testimony of Corey Owens today to
17 be credible. I don't know what reason why he would come in
18 here today and recant his prior statements at the Rule 11
19 hearing, but I don't find it to be credible.

20 So I -- I am going to hold Mr. Brown attributable
21 under the law for 180 grams -- kilograms of marijuana, base
22 offense level of 24, as set forth in the PSR. I find it to
23 be amply supported in the PSR and the evidence I received, I
24 heard at trial, and the evidence that -- and, you know, I had
25 a chance to see Mr. Day at trial testify. I had a chance to

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1 see Ms. Williams testify at trial. I had a chance to see
2 Mr. Owens here today. And I -- I credit the testimony of
3 Williams, I credit the testimony of Day, and -- as related by
4 Special Agent Farr, and as I remember it from the trial, and
5 I find Mr. Brown responsible for 180 kilograms of marijuana,
6 base offense level of -- or total offense level -- excuse me,
7 base offense level of 24.

8 Mr. Brown, without question, possessed a firearm
9 during the course of this conspiracy. He gets two points for
10 that.

11 Mr. Brown, without question, used violence in this
12 case in exercise of this conspiracy. It was -- it was, in
13 fact, the shooting of Olander Jordan. Well, that was a drug
14 deal, that was a -- you know, that was following off of a
15 failed attempt to rob a narcotics dealer. And it's directly
16 related to the drug conduct in this case. So I -- and, you
17 know, that is nothing but -- that is nothing but -- that's
18 violence, and it's use of a gun, plainly established by the
19 record.

20 I saw Olander Jordan. I heard him testify that he
21 was shot by Mr. Brown and Mr. Dove. I heard the audiotapes
22 of Mr. Brown and Mr. Dove talking about and laughing about
23 shooting Mr. Jordan in the back, on the streets of Norfolk,
24 just because he happened to be sitting on a car and didn't
25 pay enough respect to these people carrying guns.

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1 The testimony that I heard today from Special Agent
2 Farr with regard to the distribution of controlled substances
3 in a correctional facility, I'm adding two points for that as
4 well, as set forth in the pretrial services report. That was
5 testified to today by Special Agent Farr as well. That was
6 the speakerphone conversation between Ms. Williams, Dove, and
7 Brown, and there was -- they were talking about making money
8 on marijuana on the inside.

9 He also testified as to moving narcotics into Sussex
10 with Carl Tolbert and Darrell Green. Two points for that.

11 There's no question in this case that Mr. Brown gets
12 a role enhancement of three points as well. He -- the
13 testimony here that I heard at the trial, that I saw at the
14 trial, was that Mr. Brown was in a -- leading activity,
15 leading activities of Mad Stone Bloods on the street in
16 Norfolk. Mr. Farr testified today about handing out the
17 materials and the bandannas.

18 There was evidence at the trial that Mr. Brown was
19 responsible for the heroin trafficking in Norfolk until he
20 messed up a deal, and then it went to Mr. Jennings. That
21 wasn't testified to today, but it was testified to at the
22 trial of this case.

23 There was the evidence today of Mr. Brown going up
24 to -- going up to New York to meet with this guy Telesford,
25 who was -- and there was evidence from his own mouth in the

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1 recorded statements of his rank in the gang. And, again, you
2 cannot extricate the drug conspiracy from the gang
3 conspiracy. They are part and parcel of the same thing.

4 So base offense level of 24, plus two for the
5 firearm, plus two for violence, plus two for moving drugs
6 into a correctional facility, plus three for his leadership
7 role; total offense level of 33.

8 Okay. Now, his criminal history, that's the other
9 part of the equation.

10 Age 19, he was convicted in the Wake County District
11 Court in Raleigh, North Carolina for assault on a female, and
12 he got one criminal history point for that.

13 He was convicted in Virginia Beach in 2010 for a
14 crime that took place in 2009 for shoplifting, disturbing the
15 peace, and public intoxication.

16 2010, he was convicted of attempted robbery and use
17 of a firearm in commission of a felony in Norfolk Circuit
18 Court. And he got three points for that.

19 He has some other issues: Disorderly conduct, drunk
20 in public. He doesn't get any points for that.

21 So he has a criminal history score of five.
22 Criminal history score -- and he's not an old person.

23 Mr. Brown is a young man. He's only -- well, he's about to
24 turn 30. He's 29 years old.

25 But he was under -- while he committed the crimes in

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1 this case, while he committed the cocaine conspiracy in this
2 case, he was under a criminal justice sentence. So that
3 gives him two more criminal history points, puts him in a
4 criminal history category of IV.

5 So, with a total offense level of 33 and a criminal
6 history category of IV, I find, by a preponderance of the
7 evidence, that the guideline range in this case is 188 to 235
8 months. That's the guideline range in this case.

9 Now, let's hear argument as to the application of
10 the 3553(a) factors. Any evidence from the government on
11 that?

12 MR. HOFFMAN: No evidence, Your Honor.

13 THE COURT: Okay. Mr. Brown, do you have any
14 evidence on the application of the 3553(a) factors? Do you
15 want any of these folks to testify on your behalf?

16 THE DEFENDANT: No, thank you, sir.

17 THE COURT: All right. Let's hear argument from the
18 government.

19 Mr. Hoffman?

20 MR. HOFFMAN: Thank you, Your Honor.

21 As we recommended in our brief, we're recommending a
22 sentence of at least 235 months. That's the top end of the
23 guidelines. And the reason for that primarily is, this is
24 not just -- as the Court knows by now, just a regular
25 traditional drug conspiracy case. This is much more, and

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1 this defendant is much more.

2 This is about a public health hazard. This gang and
3 this defendant have posed a true danger to society, and I
4 think the Court saw that over and over and over again during
5 the trial.

6 We're talking about numerous acts of violence
7 committed by this defendant.

8 THE COURT: Associated with drug dealing.

9 MR. HOFFMAN: Associated with drug dealing,
10 including armed drug robberies or armed attempted drug
11 robberies. This defendant shot, beat, robbed, and stole from
12 others. This is well beyond a traditional drug conspiracy
13 case.

14 This defendant also possessed and used firearms in
15 connection with a drug conspiracy.

16 This defendant helped get drugs smuggled into
17 correctional facilities and advocated for the payment to the
18 person who was responsible for doing it in connection with
19 this drug conspiracy.

20 The Court, during the trial, heard evidence that he
21 participated in the credit card fraud scheme with victims.
22 Arguably, that doesn't connect directly to the drug
23 conspiracy, but it was part of the overall purpose of the
24 gang, which is to sell drugs and do other things to get
25 money.

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1 This defendant has demonstrated, and the evidence
2 has shown, an absolute callous indifference to life and a
3 callous indifference to the safety of people and the safety
4 of others, and also a callous indifference to the law, over
5 and over again.

6 That said, Your Honor, we think that a 235-month
7 sentence, at a minimum, is necessary to adequately penalize
8 the defendant and send the appropriate deterrent message;
9 specific deterrence to this defendant, and general deterrence
10 to send a message that this conduct isn't tolerated.

11 THE COURT: All right, Mr. Hoffman.

12 Mr. Brown?

13 THE DEFENDANT: Well, Judge, I know you heard a lot
14 of evidence, during trial, in this whole process, that don't
15 sound too bad -- well, don't sound too good, but that doesn't
16 describe me. That's not who I am. You know what I'm saying?
17 I'm not coming in front of you to say that I was an angel out
18 there. Yeah, I definitely was gang banging. I mean, I been
19 doing it for a long time. But I was young and immature when
20 I started.

21 Where I'm at right now, I'm trying my best to
22 convince the young people that that's not the road to go on.
23 And I'm going to do it regardless of how much I get. You
24 know what I'm saying? And I want to apologize for the wrongs
25 that I did do and the evidence that you did hear. You know

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1 what I'm saying? But I would like you to take into
2 consideration when you do give me my sentence that I have to
3 go to trial in Norfolk to retry, to be retried, on the RICO.
4 So there's a lot of things that's been presented today that
5 I'm going to be tried on again. You know what I'm saying?

6 I have two sons. And, like, it's the worst feeling
7 ever to be incarcerated as long as I've been. I got two
8 nieces that I've never even held, not one time. You know
9 what I'm saying?

10 I'm dedicated all the way to the church. You
11 feelin' me?

12 And John Farr know that in 2015, I stopped banging
13 Mad Stone. He know that for a fact. He know I was a
14 worldwide plate for Mad Stone, for that trip up to New York
15 to talk to Marcus Telesford. He know that for a fact. So
16 anything outside of 2015 and Mad Stone and me don't even go
17 together. You know what I'm saying?

18 So like I said, I'm not coming up here to say that I
19 shouldn't get no time. You know what I mean? I did some
20 wrong things. And that's how justice is supposed to be. But
21 if you stole away my life just because you feel like that I'm
22 young or whatever, then you'll be doing a dishonor as far as
23 the way I feel about being there for my family. It's already
24 hard as it is. You feelin' me? Like, I can withhold
25 anything. Like, I'm not scared of nothing, like, look you

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1 directly in the eye and tell you. Like, you've done seen me
2 during this whole trial do this by myself. You know what I'm
3 saying? But at the same time, the love that my family got
4 for me, the people got back there got for me, just to know
5 that they'll be hurt by seeing me away is, like, the worst
6 feeling in the world.

7 Like I said, I got two new nieces that I never even
8 touched. One of them look just like me. You feelin' me? I
9 got two sons that I'm not even going to be able to be a
10 father with. Already for three years I've been locked up,
11 since August 28, 2015. You know what I'm saying? And it's
12 already been hard on me not being in their life. I got a
13 12-year-old son that I haven't even talked to this whole time
14 I've been incarcerated, almost three years -- you know what
15 I'm saying? -- because of these circumstances.

16 So just to go on further, with knowing that I won't
17 have a relationship with him, and then my son's mother --
18 well, my youngest son's mother, she's young. And it's been
19 hard on her with me being incarcerated, because -- you know
20 what I'm saying? Like, she already got, like, a -- you
21 feelin' me? Like, it's hard on her. She got a messed-up
22 upbringing, so I'm her support, my family's her support. And
23 with me not being in the picture -- you know what I'm
24 saying? -- it's an uncomfortable feeling for everybody. You
25 feelin' me?

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1 But like I say, I just want you to take everything
2 into consideration and know the reason why I didn't accept
3 responsibility for my actions is because I'm not going to
4 admit to something that I didn't do. You feelin' me? Like,
5 if the government would have came to me and would have asked
6 me the things that I did, I would have admitted to it. And
7 if they would have asked me to plead out to a reasonable
8 time, I would have did it. But 35 years is not a reasonable
9 time. I think 35 years is too much time to offer me for
10 these type of things.

11 Like, the weight and all of that stuff, I don't sell
12 drugs, I never sell drugs. You know what I'm saying? I done
13 did some robbing in my life. That's a fact. Know what I
14 mean? I've done that. I've done some gang banging in my
15 life. I've been -- you know what I'm saying? I got a lot of
16 people under me; but I encourage the people that's under me,
17 you can't get stain unless you have a high school diploma or
18 go to college. Like, I don't have nobody under me trying to
19 sell drugs or rob or do the things that I've done. I don't.
20 And can't nobody say that I did. And there ain't no evidence
21 that will show that I have anybody under me that do any wrong
22 things. You know what I'm saying? And I just want you to
23 take all of that into consideration.

24 And like I said, if they would have came at me with
25 a reasonable time and would have came to me and asked me to

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1 do -- asked me about me -- see, I'm not going to do their
2 job. I'm not going to testify on the next person when I'm
3 doing wrong, too. You know what I'm saying? But if you
4 would have asked me, Brown, talk to me and admit the things
5 that you did, I would have talked to them man-to-man or
6 man-to-female and I would have admitted the stuff that I did.
7 You know what I'm saying? But to give me an ultimatum,
8 either get 35 years or to snitch on your brother, because
9 they didn't act like a brother or sister to me -- you feelin'
10 me? -- that don't mean I got to do the same thing to them.
11 To me, that's dishonorable. Know what I mean? Like, you got
12 a job to do, so do your job. But if I would have had to go
13 on the stand and say the stuff that I did, then I would have
14 did it. The only reason why I didn't take the stand during
15 trial is because -- you already seen how me and the other
16 lawyers was beefing. You feelin' me? They done tried to
17 settle for me, like, three or four times during the trial.
18 So I didn't want to go on trial, on the stand, and then my
19 other three co-Ds not taking the stand, and I feel like that
20 might have made them look bad to the jury, because I took the
21 stand but they didn't, so what has these three got to hide
22 and not him? I tried to be a team player, because it was
23 kind of getting out of hand with the lawyer, and I just
24 wanted the process to go as smooth as possible and I didn't
25 want to be accountable for messing anything up for my

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1 co-defendants and for the rest of the lawyers. You know what
2 I'm saying?

3 But, I mean, honestly, like -- I just, like, really,
4 really found God. You feelin' me? Like, I been raised in
5 the church. You feelin' me? But it's like I had to go
6 through this, I had to go through this situation in order to
7 find God and be where I'm at now. You feelin' me? Like,
8 God -- like, everybody got they own path and they own
9 journey. Know what I'm saying? God chose me to go on the
10 path and do what I did so I won't allow the people coming in
11 my shoes to make the same mistake. You feelin' me?

12 I done went all through this, like, you -- I'm not
13 here because of John Farr. You feelin' me? I'm not here
14 because of Hoffman. You feelin' me? I'm here because God
15 knew I was going to be here at this time. You know what I'm
16 saying?

17 And whatever you give me, then it is what it is, but
18 I know it's a part of God's plan. You feelin' me? But I
19 just want you to consider and know that I'm not a bad guy. I
20 done did some bad things. You know what I mean? But I got a
21 heart of gold. You feelin' me? And just know that I'm not
22 the same person that was in a lot of those situations that
23 brung evidence to this Court. I'm not that person at all no
24 more. You know what I'm saying?

25 But at the same time, there's consequences behind

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1 every action, so I know what it is and I ain't going to cry
2 over spilled milk. You feelin' me?

3 And I thank the Court for working with me, the
4 bailiffs, the probation officer, Farr, Hoffman, everybody,
5 because I know I'm representing myself and, you know, y'all
6 had to do a couple things to submit to what I had going on,
7 because I'm not a professional at it. So I appreciate, you
8 know, everybody. I know I done gave you, like, 10,000
9 motions, I mean, you had to rule on, and, like, the reporter.
10 So, you know, I hope everybody have a good life.

11 And, you know, just know, whenever I do get out, and
12 even while I'm in there, I already told the fellows today --
13 you feelin' me? -- like, that's the path I got. I mean,
14 Homey Love Ministries. I mean, I got it tatted right there,
15 "HL," Homey Love Ministries. You feelin' me? It ain't just
16 about Bloods, Crips, GDs, Vice Lords. It's my job, it's my
17 experience and my leadership, to tell them that this is
18 where -- this is where it ends you up, right here in federal
19 court. You know what I'm saying?

20 Like, I didn't have -- my close friends -- me and
21 Rokko used to be like this, and he took the stand on me.
22 That's not a good feeling. You know what I'm saying? But at
23 the end of the day, that's the game that this evolves in.
24 Like, that's the game. That's what come with it. You
25 feelin' me? But I had to see it head-on to really know what

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1 it was hitting for. You know what I'm saying?

2 Like, my priorities won't all the way right when I
3 was home. Know what I mean? I got cousins and sisters that
4 won't even talking to each other that I didn't even know
5 about until I got incarcerated. You know what I mean? So my
6 priorities being with my hood family, making sure that
7 everybody is good, making sure everybody got jobs, and
8 sending money to the penitentiary or people that I said is
9 cool -- you know what I mean? -- instead of focusing on the
10 people that love me, them people back there -- you feelin'
11 me? -- I won't doing that. Know what I'm saying?

12 So at the end of the day, there's a consequence
13 behind all your actions. Know what I mean? And I'm man
14 enough to, whatever you give me, I'm going to deal with it
15 regardless. But just know that, once I go on my other path,
16 I'm not the same as my past. From here on out, in my future,
17 I'm going to do great things throughout my experience.

18 So to be honest, I don't regret nothing that I did,
19 because I feel like if I didn't do it and feel the
20 consequences, then I won't be able to look the young people
21 in the eyes and tell them that it's not right for them to do
22 it. You know what I mean? Because you can't really respect
23 the person that say this is not right if you never
24 experienced it. You know what I'm saying? But being that I
25 experienced it, I can honestly tell them that it's not right.

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1 And that's what I'm going to do, regardless of my outcome
2 here, my outcome in Norfolk, or whatever.

3 And I just want to thank the Court for listening.

4 THE COURT: Thank you, Mr. Brown.

5 You know, I've got all these letters, from the
6 Majettes and Ms. Stuart and Dr. Crohn, and Terrance Brown,
7 Sr., Felicia Brown, Bishop Zachary Bruce, Serena Parker,
8 Erica Howard, Pamela Powell, Debra Brown, you know, and there
9 are many others in the record that have come to me over the
10 months that I've been involved with this case. And they --
11 they describe a young man who I don't know. Okay? They
12 describe a young man who I have not seen in the evidence
13 that's been presented in this courtroom.

14 The closest thing that I've seen to that young man
15 was the one who just talked to me. Okay? The one who -- who
16 stood up here, acknowledged his past faults, said he's found
17 God, and wants to help others to get off this road. Now,
18 that's the closest person that I've seen to the person in
19 these letters.

20 And I'm going give you credit for two things,
21 Mr. Brown. Okay? One, I'm going to give you credit for what
22 you just told me. All right? Because I believe it was -- it
23 was truthful, and I believe it was heartfelt, and I
24 appreciate it. Okay? And I'm also going to give you credit
25 for how you behaved and acted during the trial of this case.

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1 Okay? You acted like a responsible young man. And, you
2 know, it didn't always go your way. There was a lot of
3 rulings that didn't go your way, and you did the best you
4 could. And I want to thank you for being respectful to the
5 Court.

6 THE DEFENDANT: You're welcome, Judge.

7 THE COURT: Okay. This Court has tried hard --
8 hard -- and I have worked hard to make sure that these people
9 got a fair trial. And I believe they did. And now we have
10 to deal with the consequences.

11 And, you know, Mr. Brown, you're not -- I've been
12 doing this -- district judge seven years, almost seven years.
13 Magistrate judge seven years before that, and I'll talk a
14 little bit more about that in a minute. And virtually
15 everybody I see at allocution, at sentencing, says, you know,
16 I'm changed, I won't do this again, this is, you know,
17 I've -- I'm not that person anymore, I made some mistakes.
18 And I understand that. And I understand that it's got to be
19 difficult in your situation, being incarcerated and not being
20 able to share the love of your family.

21 And I want to give all those folks from Norfolk who
22 came over here today to support Mr. Brown credit. Okay? He
23 needs you. And he needs the love that you have shared here,
24 because he's got a lot of time he's going to have to serve,
25 and he needs to remember y'all being here. Okay?

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1 And that's important, Mr. Brown. And that's good
2 for you that all these friends and family are here.

3 You know, I start each sentencing with the
4 sentencing guidelines. We've had some issues with the
5 guidelines in this case, and I made my guidelines findings:
6 188 to 235 months. And after that -- and that's a place to
7 start. It's advisory. It's not binding on me. The only
8 thing that's binding on me is the sentence should be zero to
9 20 years. Zero to 240 months. That's what's binding on me.

10 And I start the consideration of what I'm required
11 to consider under the United States Code. Under 18 United
12 States Code, Section 3553(a), the first thing I consider is
13 the nature and circumstance of the offense.

14 Well, this is a drug conspiracy, but it isn't, as
15 Mr. Hoffman said -- and I got to give him credit; I
16 completely agree with what he said. This isn't just a drug
17 conspiracy. This is a drug conspiracy like I've never seen
18 before in the 14 years that I've been on the bench. I've
19 never seen the level of violence, the level of danger, the
20 level of callous disregard for human life that I have seen in
21 the drug conspiracy in this case. I've never heard people
22 brag about shooting somebody and then laughing about it. The
23 violence associated with the drug dealing in this case is
24 hard. It is the worst thing in our society, the callous
25 disregard for human life.

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1 And I know you weren't raised that way, Mr. Brown,
2 and I don't know where you went wrong, but this is -- the
3 evidence I heard in this case with regard to the violent acts
4 you engaged in associated with your drug dealing is the worst
5 I've heard in any case that I've presided over as a United
6 States District Judge.

7 So the nature and circumstance of the offense.
8 Sure, there's marijuana dealing going on, but associated with
9 that marijuana, there's all this violence associated with
10 drug dealing. Going out and planning to rob this drug dealer
11 who was in a wheelchair, that didn't work, so you go and
12 shoot somebody else, who just happened to be there and who
13 didn't give you the proper respect. Holy cow. Shot him
14 seven times in the back.

15 So, yeah, drug dealing is serious. And one of the
16 most serious things associated with drug dealings is violence
17 associated with drug dealings. And that's what this case is.
18 This case is about violence and drug dealings.

19 And, sure, Mr. Brown, you may want to say, Well, I
20 was just on the robbery side. That's what I did. I wasn't
21 this big-time drug dealer.

22 Well, the robberies are of drug dealers, as we heard
23 today from Special Agent Farr.

24 The violence associated with drug dealing is
25 destroying our cities. That man, Mr. Olander Jordan, was

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1 just sitting on the hood of his car one evening on a night in
2 Norfolk. Happens to be in the wrong place at the wrong time,
3 and gets shot seven times in the back, because the drug
4 robbery that you all wanted to engage in didn't go right,
5 didn't work out, was called off; so let's do something else.

6 So this is a very serious crime, and the facts of
7 this case and the evidence that I heard is among the worst
8 I've ever heard as a United States District Judge. I was
9 actually taken aback and shocked by the level of violence and
10 the callous disregard for human life demonstrated in this
11 trial. And it's all associated with this gang, and it's all
12 associated with an aspect of this gang, and that's drug
13 dealing.

14 So, nature and circumstance of the offense. Awful
15 conduct.

16 History and characteristics of the defendant. Seems
17 to me, despite the best efforts of his parents, he's led a
18 life of crime. He's been running the streets. He's led a
19 life of crime.

20 This is a serious crime that demands a serious
21 penalty, and Mr. Brown's past conduct does not speak well for
22 him. And I heard it for four weeks in this courtroom.

23 I turn from that to the other 3553(a) factors, and
24 that is the need for the sentence imposed to reflect the
25 seriousness of the offense. Well, I've already indicated

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1 this is a most serious offense.

2 To promote respect for the law. Mr. Brown has
3 demonstrated absolutely no respect for the law. He respects
4 the gang rules and things, but the Code of the United States
5 and the lives and property of citizens of this country, they
6 don't get any respect.

7 To provide just punishment, to deter Mr. Brown from
8 engaging in future conduct, and to deter other folks who are
9 members of gangs and who are selling drugs from engaging in
10 this kind of behavior. Deterrence, general deterrence, is an
11 important part of this sentence. But the most important part
12 of this sentence for me is protecting the public from future
13 crimes of the defendant.

14 And this defendant, who might be a nice, loveable
15 son and nephew and uncle to them, has demonstrated,
16 throughout his actions that I have seen the evidence of in
17 this courtroom, to be a highly dangerous individual who was
18 involved in a drug dealing conspiracy that resulted in
19 violence on the streets.

20 Therefore, I am going to sentence Mr. Brown to the
21 maximum sentence that I can sentence him under the law. I'm
22 varying upwards from the guidelines to 240 months. I believe
23 that sentence to be sufficient, but not greater than
24 necessary.

25 Like I said, I have not seen in any case I've been

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1 associated with the level of violence associated with the
2 drug dealing in this case, directly attributable to
3 Mr. Brown. So I'm sentencing him to 240 months in the Bureau
4 of Prisons.

5 And I understand it's more than I've given other
6 folks in this case, but I have not seen the level of
7 violence. I gave Mr. Nicholas and Mr. Jennings less time,
8 but they did not have the violence associated with them and
9 the callous disregard for human life associated with the drug
10 dealing activities in this case. So I'm varying upwards by
11 five months, to 240 months, in this case. That is the
12 statutory maximum penalty that I can give.

13 And I said this earlier. Regardless of the
14 guidelines finding I made in this case, I would give the same
15 sentence, because this is the most dangerous conduct involved
16 with drug dealing that I have seen in my years as a United
17 States District Judge. And if any case demands the maximum
18 240-month sentence, this one cries out for it. And, in fact,
19 if I could give Mr. Jones -- Mr. Brown more time, I would,
20 but I can't.

21 240 is the maximum I can give you, but I can't give
22 you any more than that. And that's why I'm imposing the
23 statutory maximum in this case.

24 I'm going to give him a period of supervised release
25 in this case, once he gets out of the Bureau of Prisons, of

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1 five years. While he's on supervised release, he must comply
2 with the following mandatory conditions of supervision:

3 Shall not commit another federal, state, or local
4 law; cannot unlawfully possess a controlled substance; must
5 refrain from any unlawful use of a controlled substance; must
6 submit to drug testing as directed by probation; must
7 cooperate with the collection of DNA as directed by
8 probation; must comply with the standard conditions of
9 supervision.

10 I'm going to impose a \$1,000 fine and a \$100
11 mandatory special assessment. And I'm going to talk about
12 the payment terms in a minute.

13 That fine will give him the opportunity to
14 participate in the inmate financial responsibility program
15 offered by the Bureau of Prisons.

16 I'm going to recommend that he get drug treatment in
17 the Bureau of Prisons. And when he gets out of the Bureau of
18 Prisons we'll evaluate his status and determine whether,
19 after incarceration, drug rehabilitation is necessary and
20 appropriate. If additional rehabilitation is deemed
21 appropriate, the defendant shall participate in a program as
22 designated by the Court, upon consultation with probation,
23 until such time as he's satisfied all the requirements of the
24 program.

25 He shall reside in a residence free of firearms,

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1 ammunition, destructive devices, dangerous weapons -- can't
2 touch one; can't have anything to do with guns -- ammunition,
3 destructive devices, dangerous weapons.

4 Shall submit to warrantless search and seizure to
5 ensure compliance with these conditions.

6 The fine is below the guideline range. And I'm
7 going to require a lump sum payment of \$100 immediately, and
8 during the term of imprisonment, payment of equal monthly
9 installments of \$25 or 50 percent of the defendant's prison
10 income, whichever is less, to commence 60 days after the date
11 of this judgment, payable in equal monthly installments. And
12 then after he gets out, if there's any amount still due and
13 owing, I'm going to require \$25 a month, to commence 60 days
14 after he gets out of the Bureau of Prisons.

15 Mr. Brown, you have the right to appeal your
16 sentence, and if you are unable to pay the cost of an appeal,
17 you may apply for leave to appeal without prepayment of such
18 cost. Any notice of appeal must be filed within 14 days of
19 the entry of judgment or 14 days of a notice of appeal by the
20 government. If requested, the clerk will prepare and file a
21 notice of appeal on your behalf.

22 Do you understand, Mr. Brown, that you've got --
23 from the day I sign the judgment in this case, you've got
24 a -- you've got 14 days to file a notice of appeal. Do you
25 understand that?

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1 THE DEFENDANT: Can I file it while I'm here?

2 THE COURT: You can file it right now, if you want
3 to.

4 THE DEFENDANT: Yeah, please. Can I get the form?

5 THE COURT: The clerk will -- we'll make sure you
6 get a form so that you can file your notice of appeal. Okay?

7 THE DEFENDANT: Thank you.

8 THE COURT: And that's your right. Okay? You have
9 a right to ask the Court of Appeals to see whether I made any
10 error in this case. And that, Mr. Brown, is your right.

11 Hold on one second. Oh, and the clerk will prepare
12 and file a notice of appeal on your behalf. Okay? And you
13 can also file a notice of appeal -- if you're unable to pay
14 the cost of an appeal, you can file for leave to appeal
15 without prepayment of such costs.

16 Do you want to file for leave to appeal without
17 prepayment of such costs?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay. I'll grant that. You can file
20 your notice of appeal without prepayment of such costs.

21 Do you want the clerk to prepare and file the notice
22 of appeal on your behalf?

23 THE DEFENDANT: Please.

24 THE COURT: Okay. I direct the clerk to file a
25 notice of appeal on Mr. Brown's behalf. Okay?

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1 THE DEFENDANT: Thank you.

2 THE COURT: Okay. We'll go ahead and give you the
3 form. You can fill it out as well. Okay? And we'll get a
4 notice of appeal -- file a notice of appeal in this regard.

5 Anything -- what about a place? Where would you
6 like to be housed?

7 THE DEFENDANT: Butner.

8 THE COURT: Okay. I will house you as close to your
9 home in Norfolk as possible, consistent with your security
10 classification, and I'll recommend to the Bureau of Prisons
11 that you have asked for Butner, North Carolina. I will do
12 that.

13 Anything further from the government?

14 MR. HOFFMAN: No, Your Honor.

15 THE COURT: Anything further from you, Mr. Brown?

16 THE DEFENDANT: What is my security classification?

17 THE COURT: I don't know. It's whatever the Bureau
18 of Prisons decides it is. I have nothing to do with that.
19 They're going to take a look at all these documents, they're
20 going to take a look at everything, and they'll decide what
21 kind of classification to give you. That's up to the Bureau
22 of Prisons of the United States Department of Justice. I
23 have nothing to do with that. Okay?

24 THE DEFENDANT: All right.

25 THE COURT: Do you have any other questions, young

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1 man?

2 THE DEFENDANT: May I hug my family?

3 THE COURT: No, I'm not going to allow that. I
4 will -- the marshal service does not allow me to do it. I
5 haven't allowed anybody else to do it today, so I'm not going
6 to allow you to hug your family. I will allow you to greet
7 them, however. Okay? But I can't allow hugs due to their
8 security concerns.

9 All right. Ms. Cilek, anything I might have missed?

10 PROBATION OFFICER: No, Your Honor.

11 THE COURT: Ask the marshal to declare a recess.

12 THE MARSHAL: All rise. By the direction of His
13 Honor, this United States District Court is in recess until
14 return of court.

15 THE COURT: Mr. Brown, good luck to you, young man.

16 THE DEFENDANT: Thank you, Judge.

17 (Proceedings adjourned, 6:01 p.m.)

18 CERTIFICATE

19 I, JoRita B. Meyer, certify that the foregoing is a
20 correct transcript from the record of proceedings in
21 the above-entitled matter.

22 /s/ JoRita B. Meyer

Date: 7/11/2018

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