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IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 14-30518

In re: KEITH ROMAN HENDERSON,
Movant

Appeal from the United States District Court for the
Western District of Louisiana, Lafayette

CLERK'S OFFICE:

Under FED. R. APP. P. 42(b), the appeal is dismissed
as of June 03, 2014, pursuant to appellant's motion.

LYLE W. CAYCE
Clerk of the United States Court
of Appeals for the Fifth Circuit

By: /s/ Sabrina B. Short
Sabrina B. Short, Deputy Clerk

ENTERED AT THE DIRECTION OF THE COURT

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

KEITH ROMAN	)	Case No. CV
HENDERSON,	)	14-4302 PSG (JCG)
Petitioner,	)	JUDGMENT
v.	)	
UNITED STATES	)	
OF AMERICA,	)	
Respondent.	)	

IT IS ADJUDGED that the above-captioned action is **DISMISSED WITHOUT PREJUDICE** for the reasons set forth in the Magistrate Judge's Report and Recommendation.

DATED: December 1, 2014

PHILIP S. GUTIERREZ
HON. PHILIP S. GUTIERREZ
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

**KEITH ROMAN
HENDERSON**

**CIVIL ACTION
NO. 14-801-P**

VERSUS

JUDGE HICKS

USA

**MAGISTRATE
JUDGE HORNSBY**

MEMORANDUM ORDER

Before the court is a petition for writ of *habeas corpus* filed by *pro se* petitioner Keith Roman Henderson, pursuant to 28 U.S.C. § 2241. Petitioner was incarcerated in the Federal Correctional Institution in Lompoc, California when he filed this action. Petitioner challenges the validity of his sentence.

Pursuant to the authority granted in 28 U.S.C. § 1406, **IT IS HEREBY ORDERED** that the Clerk of Court **TRANSFER** the above captioned case to the United States District Court for the Central District of California, the district in which Petitioner was incarcerated when he filed this action.

THUS DONE and signed, in chambers, in Shreveport, Louisiana, on this 30th day of May 2014.

/s/ Mark L. Hornsby
Mark L. Hornsby
U.S. Magistrate Judge

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FILED: March 28, 2014

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6046
(1:07-cr-00396-CMH-1)
(1:13-cv-01162-CMH)

UNITED STATES OF AMERICA
Plaintiff – Appellee

v.

YAHYA WATSON
Defendant – Appellant

JUDGMENT

In accordance with the decision of this court, a certificate of appealability is denied and the appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

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FILED: February 24, 2012

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6325
(1:07-cr-00396-CMH-1)
(1:10-cv-01391-CMH)

UNITED STATES OF AMERICA
Plaintiff-Appellee

v.

YAHYA WATSON
Defendant-Appellant

ORDER

This appeal was noted from a final order adverse to the applicant in a case in which 28 U.S.C. § 2253(c)(1) requires issuance of a certificate of appealability to take an appeal. Rule 11(a) of the Rules Governing Section 2254 and Section 2255 Cases provides that the district court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant” in such cases. The district court’s order denying relief in this case neither grants nor denies a certificate of appealability.

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Accordingly, this case is remanded to the district court for the limited purpose of permitting the district court to supplement the record with an order granting or denying a certificate of appealability. If the court grants a certificate, the specific issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2) must be stated. The record, as supplemented, shall then be forwarded to this court.

For the Court – By Direction

/s/ Patricia S. Connor, Clerk

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Case No. 13-5778

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

ORDER

MAJER HAFIZ

Petitioner-Appellant

v.

UNITED STATES OF AMERICA

Respondent-Appellee

Petitioner having previously been advised that failure to satisfy certain specified obligations would result in dismissal of the case for want of prosecution and it appearing that the petitioner has failed to satisfy the following obligation(s):

The proper fee was not paid by July 8, 2013.

It is therefore **ORDERED** that this cause be, and it hereby is, dismissed for want of prosecution.

**ENTERED PURSUANT TO
RULE 45(a), RULES OF
THE SIXTH CIRCUIT**

Deborah S. Hunt, Clerk

Issued: July 30, 2013 /s/Deb Hunt

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RELEVANT STATUTORY PROVISIONS

Section 846 of Title 21 of the United States Code provides:

Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

Section 841(a) and (b) of Title 21 of the United States Code (1994 & Supp. V) provides:

(a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally –

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or

(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

(b) Penalties

Except as otherwise provided in section 849, 859, 860, or 861 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(A) In the case of a violation of subsection (a) of this section involving –

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- (i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;
- (ii) 5 kilograms or more of a mixture or substance containing a detectable amount of –
 - (I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (II) cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - (IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);
- (iii) 50 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years

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and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$8,000,000 if the defendant is an individual or \$20,000,000 if the defendant is other than an individual, or both. If any person commits a violation of this subparagraph or of section 849, 859, 860, or 861 of this title after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. Any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

(B) In the case of a violation of subsection (a) of this section involving –

(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

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(ii) 500 grams or more of a mixture or substance containing a detectable amount of –

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

(iii) 5 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life

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imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this subparagraph shall, in the absence of such a prior conviction, include a term of supervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of supervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

UNITED STATES	* CRIMINAL NO.
OF AMERICA	* 05-60040
VERSUS	* JUDGE MELANÇON
KEITH ROMAN	* MAGISTRATE
HENDERSON	* JUDGE METHVIN
LIONEL JOSEPH	*
HENDERSON, JR.	*

SUPERSEDING INDICTMENT

THE GRAND JURY CHARGES:

COUNT 1

**CONSPIRACY TO DISTRIBUTE
COCAINE BASE (CRACK)**

21 U.S.C. § 846

Beginning on a date unknown to the Grand Jury, until on or about the 13th day of July 2005, in the Western District of Louisiana and elsewhere, the defendants, KEITH RAMON HENDERSON and LIONEL JOSEPH HENDERSON, JR., did knowingly and intentionally combine, conspire, confederate and agree together, and with divers other persons, known and unknown to the Grand Jury, to knowingly and intentionally distribute fifty (50) grams or more of cocaine base or “crack”, which is a Schedule II narcotic controlled substance.

OVERT ACTS

In furtherance of this conspiracy and to effect and accomplish the objects thereof, one or more of the conspirators committed and caused to be committed the offense alleged in Counts 2 through 5 of this indictment, which are incorporated herein by reference as overt acts.

All in violation of Title 21, United States Code, Sections 846 and 841(b)(1)(A). [21 U.S.C. §§ 846 and 841(b)(1)(A)].

COUNT 2

DISTRIBUTION OF COCAINE BASE

21 U.S.C. § 841(a)(1)

On or about the 3rd day of March 2005, in the Western District of Louisiana at Amelia, the defendants, KEITH RAMON HENDERSON and LIONEL JOSEPH HENDERSON, JR., each aided and abetted by the other, distributed fifty (50) grams or more of cocaine base or “crack”, that is approximately 128.3 grams of cocaine base, a Schedule II narcotic controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2. [21 U.S.C. §§ 841(a)(1) & 841(b)(1)(A) and 18 U.S.C. § 2].

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COUNT 3

DISTRIBUTION OF COCAINE BASE

21 U.S.C. § 841(a)(1)

On or about the 17th day of March 2005, in the Western District of Louisiana at Amelia, the defendants, KEITH RAMON HENDERSON and LIONEL JOSEPH HENDERSON, JR., each aided and abetted by the other, distributed fifty (50) grams or more of cocaine base or “crack”, that is approximately 124.9 grams of cocaine base, a Schedule II narcotic controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2. [21 U.S.C. §§ 841(a)(1) & 841(b)(1)(A) and 18 U.S.C. § 2]

COUNT 4

DISTRIBUTION OF COCAINE BASE

21 U.S.C. § 841(a)(1)

On or about the 13th day of July 2005, in the Western District of Louisiana at Amelia, the defendants, KEITH RAMON HENDERSON and LIONEL JOSEPH HENDERSON, JR., each aided and abetted by the other, distributed fifty (50) grams or more of cocaine base or “crack”, that is approximately 119.4 grams of cocaine base, a Schedule II narcotic controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A) and Title 18, United States Code, Section 2. [21 U.S.C. §§ 841(a)(1) & 841(b)(1)(A) and 18 U.S.C. § 2]

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COUNT 5

**POSSESSION OF A FIREARM IN FURTHER-
ANCE OF A DRUG TRAFFICKING CRIME**

18 U.S.C. § 924(c)(1)

On or about the 13th day of July 2005, in the Western District of Louisiana at Amelia, the defendant, LIONEL JOSEPH HENDERSON, JR., knowingly possessed a firearm, to wit: a black Mauser .45 caliber semiautomatic pistol (SN: MC005677), in furtherance of a drug trafficking crime for which they may be prosecuted in a court of the United States, that is, Distribution of Cocaine Base as alleged in Count 4 above, in violation of Title 18, United States Code, Section 924(c)(1). [18 U.S.C. § 924(c)(1)].

COUNT 6

**POSSESSION OF FIREARM
BY CONVICTED FELON**

18 U.S.C. § 922(g)(1)

On or about the 13th day of July 2005, in the Western District of Louisiana at Amelia, the defendant, LIONEL JOSEPH HENDERSON, JR., having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess in and affecting commerce, a firearm, to wit: a black Mauser .45 caliber semiautomatic pistol (SN: MC005677), in violation of Title 18, United States Code, Section 922(g)(1). [18 U.S.C. § 922(g)(1)].

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COUNT 7

FORFEITURE

18 U.S.C. § 924(d)(1)

A. The allegations contained in Counts Five and Six are incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 924(d)(1). [18 U.S.C. § 924(d)(1)].

B. As a result of the violations in Counts Five and Six of this Indictment, the defendant, LIONEL JOSEPH HENDERSON, JR., shall forfeit to the United States any firearm or ammunition involved in or used in said violations, and any property used or intended to be used in any manner or part to commit or facilitate the commission of the aforementioned violations, such property includes but is not limited to the following:

1. A black Mauser .45 caliber semiautomatic pistol (SN: MC005677); and
2. Eight (8) rounds of Winchester .45 caliber ammunition.

All in violation of Title 18, United States Code, Section 924(d)(1). [18 U.S.C. § 924(d)(1)].

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COUNT 8

FORFEITURE

21 U.S.C. §853

A. The allegations contained in Counts 1 through 4 are incorporated by reference for the purpose of alleging forfeitures pursuant to the provisions of Title 21, United States Code, Section 853. [21 U.S.C. § 8531.

B. As a result of the violations alleged in Counts 1 through 4 of this Indictment, the defendants, KEITH HENDERSON and LIONEL HENDERSON, shall forfeit to the United States any property constituting, or derived from proceeds the defendant obtained directly or indirectly, as the result of said violations, and any property used or intended to be used in any manner or part to commit or facilitate the commission of the aforementioned violations, such property includes but is not limited to, the following:

1. \$640.00 in United States Currency seized on or about 13th day of July 2005, from the person of LIONEL HENDERSON;
2. A 2000 Ford Ranger pickup truck bearing Louisiana license plate W792008 (VIN: 1FTYR10C6YPB78488) belonging to KEITH HENDERSON.

C. By virtue of the commission of the offenses charged in this Indictment by the defendants, any and all interest in the above-described property is vested in the United States and is forfeited to the United States pursuant to 21 U.S.C. §853.

D. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants –

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person.
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been co-mingled with other property which cannot be subdivided without difficulty;

It is the intent of the United States, pursuant to 21 U.S.C. §853(p), to seek forfeiture of any other property of the defendants, up to the value of the property identified above as being subject to forfeiture.

All in violation of Title 21, United States Code, Section 853. [21 U.S.C. §853].

DONALD W. WASHINGTON	REDACTED
United States Attorney	
/s/ Brett L. Grayson	
BRETT L. GRAYSON,	
ID # 800099	
Assistant United States Attorney	
800 Lafayette Street, Suite 2200	
Lafayette, Louisiana 70501	
Telephone: 337-262-6618	

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**United States District Court
Western District of Louisiana
Lafayette Division**

UNITED STATES OF AMERICA	JUDGMENT IN A CRIMINAL CASE
V.	
KEITH ROMAN HENDERSON	Case Number: 05CR60040-01
	USM Number: 12795-035
	<u>Peter Q. John</u> Defendant's Attorney

THE DEFENDANT:

- ☐ pleaded guilty to
count(s): _____
- ☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.
- ☒ was found guilty on count(s) 1,2, & 3 of the Super-
ceding Indictment after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Count Number(s)</u>	<u>Date Offense Concluded</u>
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See next page.

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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☒ The defendant has been found not guilty on count(s)
4 of the Superceding Indictment.

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

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

July 28, 2006

Date of Imposition of Judgment

[Illegible]

Signature of Judicial Officer

TUCKER L. MELANCON,
United States District Judge

Name & Title of Judicial Officer

August 2, 2006

Date

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 U.S.C. §§846 and 841(b)(1)(A)	Conspiracy to Dis- tribute 50 Grams or more of a Mix- ture or Substance Containing Co- caine Base	07/13/2005	1
21 U.S.C. §§ 841(a)(1) and 841(b)(1)(1)(A)	Distribution of 50 Grams of More of a Mixture or Sub- stance Containing Cocaine Base	03/03/2005	2
21 U.S.C. §§841(a)(1) and 841(b)(1)(A)	Distribution of 50 Grams of More of a Mixture or Sub- stance Containing Cocaine Base	03/17/2005	3

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 296 months as to Counts 1,2, and 3. Said terms are to run concurrently.

[] The court makes the following recommendations to the Bureau of Prisons:

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

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

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

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

☐ before 2 p.m. on _____.
☐ as notified by the United States Marshal.
☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

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

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 10 years as to Counts 1,2, and 3. Said terms are to run concurrently.

MANDATORY CONDITIONS (MC)

1. The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.
2. The defendant shall not commit another federal, state, or local crime.
3. The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
4. ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
5. ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
6. ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
7. ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)

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8. ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)
9. If this judgment imposes a fine or a restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.
10. The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

**STANDARD CONDITIONS
OF SUPERVISION (SC)**

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;

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- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit

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the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

SPECIAL CONDITIONS OF SUPERVISION (SP)

- 1.) Should the Probation Office feel additional substance abuse testing and/or counseling is necessary, the defendant will participate in any such program, as directed by the United States Probation Office.
- 2.) Should the Probation Office feel that mental health evaluation and/or treatment is necessary, the defendant will participate in any such program, as directed by the United States Probation Office.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 300.00	\$	\$

- [] The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- [] The defendant must make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned

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payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. §3664(i), all non-federal victims must be paid before the United States is paid.

<u>Name of</u> <u>Payee</u>	<u>*Total</u> <u>Loss</u>	<u>Restitution</u> <u>Ordered</u>	<u>Priority or</u> <u>Percentage</u>
--	--	--	---

TOTALS:	\$ ____	\$ ____	
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☐ Restitution amount ordered pursuant to plea agreement _____

☐ The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6, may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

☐ The interest requirement is waived for the
☐ fine ☐ restitution.

☐ The interest requirement for the ☐ fine ☐
restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, for offenses committed on or after September 13, 1994 but before April 23, 1996.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☒ Lump sum payment of \$ 300.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D, ☐ E or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ ____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ ____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of court.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES	)	CRIMINAL NO. 1:07CR396
OF AMERICA	)	Count 1 – 21 U.S.C. § 846
v.	)	Conspiracy to Distribute
YAHYA WATSON,	)	and Possess with Intent to
Defendant.	)	Distribute Cocaine
	)	Forfeiture Notice –
	)	21 U.S.C. § 853

INDICTMENT

(Filed Sep. 27, 2007)

September 2007 Term – at Alexandria, Virginia
THE GRAND JURY CHARGES THAT:

COUNT ONE

Beginning in or about October 2005, and continuing thereafter up through in or about July 2006, the exact dates being unknown, in the Eastern District of Virginia and elsewhere, the defendant, YAHYA WATSON, did unlawfully, knowingly and intentionally combine, conspire, confederate, and agree with others both known and unknown to the grand jury to unlawfully, knowingly and intentionally distribute and possess with intent to distribute five kilograms or more of a mixture and substance containing a detectable amount of cocaine, a Schedule II controlled substance, in violation Title 21 United States Code, Section 841(a)(1).

WAYS, MANNER AND MEANS
TO ACCOMPLISH THE CONSPIRACY

The primary purpose of the conspiracy was to make as much money as possible through the distribution of cocaine in the Eastern District of Virginia and elsewhere. The ways, manner and means by which this purpose was carried out included the following:

1. It was part of the conspiracy that WATSON and his conspirators played different roles and took upon themselves various tasks and participated in the affairs of the conspiracy through various criminal acts.

2. It was further part of the conspiracy that conspirators obtained and attempted to obtain cocaine from Northern California and elsewhere for distribution in the Washington, D.C. metro area.

3. It was further part of the conspiracy that WATSON caused cocaine to be sent by United Parcel Service (UPS) from Northern California to a Jennifer Convertibles furniture store in Gaithersburg, Maryland, where one or more co-conspirators accepted delivery of the packages and distributed said packages to WATSON. In shipping the packages through UPS, some of the packages were transported by UPS through UPS's warehouse in Chantilly, Virginia, in the Eastern District of Virginia.

4. It was further part of the conspiracy that between on or about October 14, 2005 to June 22, 2006, WATSON caused to be shipped 32 UPS packages bearing UPS shipper number 951X39 and weighing a total

of approximately 450 pounds from Oakland, California, to a Jennifer Convertibles store in Gaithersburg, Maryland.

5. It was further part of the conspiracy that WATSON and his conspirators further distributed the cocaine after acquiring possession of the UPS packages.

6. It was further part of the conspiracy that from in or about January 2006 through in or about June 2006, WATSON distributed two (2) to three (3) kilograms of cocaine per week to a co-conspirator (CC-1).

7. It was a further part of the conspiracy that WATSON and his conspirators derived large sums of money from the trafficking of cocaine.

8. It was a further part of the conspiracy that WATSON and his conspirators used various methods to conceal the conspiracy and their unlawful drug distribution activities in order to insure the continuing existence and success of the conspiracy.

9. It was further part of the conspiracy that WATSON traveled by airplane from Washington Dulles International Airport, in the Eastern District of Virginia, to California, with bulk cash currency acquired from his drug trafficking activity.

10. It was further part of the conspiracy that WATSON sent bulk cash currency by express delivery service to Northern California to pay for the cocaine that he and his coconspirators acquired and distributed.

OVERT ACTS

In furtherance of the said conspiracy and to effect the objects thereof, the defendant and his conspirators committed overt acts in the Eastern District of Virginia and elsewhere, including, but not limited to, the following:

1. On or about November 30, 2005, at Washington Dulles International Airport, in the Eastern District of Virginia, WATSON possessed \$10,601.00 in U.S. currency, secured by rubber bands in his coat pocket, while attempting to board a flight to Oakland, California.

2. In or about December 2005, in Gaithersburg, Maryland, WATSON and CC-1 discussed the distribution of kilogram quantities of cocaine for \$22,000 per kilogram.

3. In or about December 2005, in Gaithersburg, Maryland, WATSON distributed two (2) kilograms of cocaine to CC-1 for \$22,000 per kilogram.

4. In or about January 2006, in Gaithersburg, Maryland, WATSON distributed one kilogram of cocaine to a co-conspirator (CC-2) near the Motor Vehicle Administration on Clopper Road.

5. On or about February 15, 2006, WATSON caused two (2) packages to be shipped by Federal Express from Maryland to Walnut Creek, California containing a total of \$113,760.00 in U.S. currency.

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6. On or about May 3, 2006, in Gaithersburg, Maryland, WATSON distributed two (2) kilograms of cocaine to CC-1 at a parking lot near West Side Drive.

7. On or about June 22, 2006, WATSON caused a shipment of approximately seven (7) kilograms of cocaine to be shipped via UPS from Oakland, California, through UPS's warehouse in Chantilly, Virginia, in the Eastern District of Virginia, to a Jennifer Convertibles store in Gaithersburg, Maryland.

(All in violation of Title 21,
United States Code, Section 846.)

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES	)	CRIMINAL NO. 1:07CR396
OF AMERICA	)	TRIAL:
v.	)	NOVEMBER 28, 2007
YAHYA WATSON	)	HON. CLAUDE M. HILTON

NOTICE OF INTENTION TO
INTRODUCE EXPERT TESTIMONY

(Filed Nov. 16, 2007)

PLEASE TAKE NOTICE that the United States intends to introduce the following expert testimony:

1. The government intends to call Susan Cohen, who is a Forensic Chemist at the Montgomery County Police Department Crime Laboratory. Forensic Chemist Susan Cohen will testify as an expert who conducted the chemical analyses of United States Exhibit 2A1, and made her respective findings as reflected in U.S. Exhibit 2A10. She will testify that her analysis of United States Exhibit 2A1 proved to a reasonable degree of scientific certainty that United States Exhibit 2A1 was cocaine hydrochloride (6.981 kilograms), a Schedule II controlled substance. The qualifications of Ms. Cohen are set forth in U.S. Exhibit 2A11.

2. The government intends to call Montgomery County Detective Richard Armagost as a Summary Witness regarding package delivery records, cellular

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telephone records, and WATSON's employment, earnings, unemployment compensation and tax records.

Respectfully submitted,

Chuck Rosenberg
United States Attorney

/s/

Stephen Sola
Special Assistant United States Attorney
Attorney for the United States of America
United States Attorney's Office
Justin W. Williams U.S. Attorney's Building
2100 Jamieson Avenue
Alexandria, Virginia 22314
Phone: 703-299-3950
Fax: 703-299-3981
Email Address: Steve.Sola@usdoj.gov

UNITED STATES DISTRICT COURT
Eastern District of Virginia
Alexandria Division

UNITED STATES OF AMERICA	Case Number: 1:07CR00396-001
V.	USM Number: 72271-083
YAHYA WATSON Defendant.	Defendant's Attorney: Matthew Alan Wartel, Esquire

JUDGMENT IN A CRIMINAL CASE

The defendant pleaded guilty to Count 1 of the Indictment.

The defendant is adjudicated guilty of these offenses.

<u>Title and</u> <u>Section</u>	<u>Nature of</u> <u>Offense</u>	<u>Offense</u> <u>Class</u>	<u>Offense</u> <u>Class</u>	<u>Count</u>
21 U.S.C. § 846	Conspiracy to Possess With Intent to Distribute Five Kilograms or More of Cocaine (Sch. II)	Felony	07/2006	1

As pronounced on May 8, 2008, the defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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

Signed this 12th day of May, 2008.

/s/

CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

IMPRISONMENT

The defendant is hereby committed into the custody of the United States Bureau of Prisons to be imprisoned for a term of THREE HUNDRED and TWENTY-FOUR (324) Months.

The Court makes the following recommendations to the Bureau of Prisons:

The Court recommends that the defendant be designated to the facility in Cumberland, Maryland.

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

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RETURN

I have executed this judgment as follows: _____

Defendant delivered onto _____
to _____ at _____,
with a certified copy of this Judgment

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of TEN (10) Years.

The Probation Office shall provide the defendant with a copy of the standard conditions and any special conditions of supervised release.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess or use a controlled substance. Unless mandatory drug testing is waived, the defendant shall submit to one drug test within 15 days of release from custody and periodic drug tests thereafter, as determined by the Court.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or restitution obligation, it is a condition of supervised release that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

STANDARD CONDITIONS OF SUPERVISION

The defendant shall comply with the standard conditions that have been adopted by this court as well as with any special conditions of supervision.

- 1) the defendant shall not leave the judicial district without the permission of the Court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;

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- 6) the defendant shall notify the probation officer at least ten days before any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or as an agent of a law enforcement agency without the permission of the Court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or

personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

SPECIAL CONDITIONS OF SUPERVISION

While on supervised release, pursuant to this Judgment, the defendant shall also comply with the following additional special conditions:

- 1) The defendant shall participate in a program approved by the Probation Office for substance abuse, which program may include residential treatment and testing to determine whether the defendant has reverted to the use of drugs or alcohol, with partial cost to be paid by the defendant, all as directed by the probation officer.

CRIMINAL MONETARY PENALTIES

<u>Count</u>	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
1	\$100.00	\$0.00	\$0.00
TOTALS:	\$100.00	\$0.00	\$0.00

No fines have been imposed in this case.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

The special assessment shall be due in full immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Payments shall be applied in the following order: (1) assessment (2) restitution principal (3) restitution interest (4) fine principal (5) fine interest (6) community restitution (7) penalties and (8) costs, including cost of prosecution and court costs.

Nothing in the court's order shall prohibit the collection of any judgment or fine by the United States.

The defendant shall forfeit property to the United States in accordance with the Orders of Forfeiture entered on April 7, 2008 and May 8, 2008.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

UNITED STATES	)	
OF AMERICA	)	
v.	)	No. 3:05-CR-18
	)	JORDAN/SHIRLEY
MAJER HAFIZ and	)	
OSCAR IVAN TORRES-	)	
LUNA	)	

SUPERSEDING INDICTMENT

Count One

(Filed Apr. 19, 2005)

The Grand Jury charges that from in or about March, 2004, until on or about February 11, 2005, within the Eastern District of Tennessee and elsewhere, the defendants, MAJER HAFIZ and OSCAR IVAN TORRES-LUNA, did willfully, knowingly, intentionally and without authority, combine, conspire, confederate and agree with others both known and unknown to the grand jury, to commit violations of 21 U.S.C. § 841(a)(1), that is, to distribute and possess with intent to distribute five (5) kilograms or more of a mixture and substance containing a detectable amount of cocaine hydrochloride, a Schedule II controlled substance.

[21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(A)]

Count Two

The Grand Jury further charges that on various dates between about March, 2004, and February 11, 2005, within the Eastern District of Tennessee and elsewhere, the defendant, MAJER HAFIZ, did knowingly possess a firearm in furtherance of a drug trafficking crime, as set forth in Count One of this Indictment.

[18 U.S.C. § 924(c)]

Count Three

The Grand Jury further charges that on or about February 11, 2005, within the Eastern District of Tennessee, the defendants, MAJER HAFIZ and OSCAR IVAN TORRES-LUNA, aided and abetted by each other, did knowingly, intentionally, and without authority distribute five hundred (500) grams or more of a mixture and substance containing a detectable amount of cocaine hydrochloride, a Schedule II controlled substance.

[21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B); 18 U.S.C. § 2]

Count Four

The Grand Jury further charges that on or about February 11, 2005, within the Eastern District of Tennessee and elsewhere, the defendants, MAJER HAFIZ and OSCAR IVAN TORRES-LUNA, aided and abetted by each other, did knowingly, intentionally, and without authority possess with intent to distribute five

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hundred (500) grams or more of a mixture and substance containing a detectable amount of cocaine hydrochloride, a Schedule II controlled substance.

[21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B); 18 U.S.C. § 2]

Count Five

The Grand Jury further charges that on or about February 11, 2005, within the Eastern District of Tennessee and elsewhere, the defendant, MAJER HAFIZ, did knowingly possess a firearm in furtherance of a drug trafficking crime, as set forth in Count Four of this Indictment, that is, a .45 caliber Taurus semi-automatic pistol.

[18 U.S.C. § 924(c)]

A TRUE BILL:

/s/ [Illegible]
FOREPERSON

PRESENTED BY:

HARRY S. MATTICE, JR.
UNITED STATES ATTORNEY

By /s/ Charles E. Atchley, Jr. FOR
DAVID C. JENNINGS
ASSISTANT UNITED
STATES ATTORNEY

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

UNITED STATES	)	
OF AMERICA	)	No. 3:05-CR-18
v.	)	JUDGE JORDAN
MAJER HAFIZ, et al.	)	

**UNITED STATES' NOTICE PURSUANT
TO FED. R. CRIM. P. 16(a)(1)(G)**

The United States of America, by and through the United States Attorney for the Eastern District of Tennessee, hereby files this notice pursuant to Fed. R. Crim. P. 16(a)(1)(G) regarding expert testimony, and states the following:

The Court and defendant are hereby placed on notice that the government will call Special Agent Celeste D. White of the Tennessee Bureau of Investigation Crime Laboratory as an expert witness in its case-in-chief. SA White will testify as to her qualifications and experience in the field of forensic chemistry, specifically, the examination and identification of controlled substances. She will testify that an exhibit, which she designated "01-a" and which she describes as "compressed white powder," was received by her at the TBI Crime Lab on April 8, 2005, from an employee of the Knox County Sheriff's Department. She tested this exhibit and determined that, based upon her training, experience and scientific tests and

examinations which she conducted in this case, it was 3000.2 grams of cocaine, a Schedule II controlled substance. A copy of her report was received by the undersigned via facsimile on April 15, 2005. Said report was immediately sent via facsimile to counsel for defendants Hafiz and Torres-Luna.

Respectfully submitted this 15th day of April, 2005.

HARRY S. MATTICE, JR.
United States Attorney

By: s/David C. Jennings
DAVID C. JENNINGS
Assistant United States Attorney
BPR No. 006180
800 Market Street, Ste. 211
Knoxville, Tennessee 37902
(423) 545-4167

[Certificate Of Service Omitted]

**United States District Court
Eastern District of Tennessee**

UNITED STATES
OF AMERICA

v.

MAJER HAFIZ

**JUDGMENT IN A
CRIMINAL CASE**

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

Case Number:

3:05-CR-18-001

Bruce E. Poston

Defendant's Attorney

THE DEFENDANT:

- ☐ pleaded guilty to count(s) _____
- ☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.
- ☒ was found guilty on count(s) 1-5 of the
Superseding Indictment after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the
defendant is guilty of the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
See next page			

The defendant is sentenced as provided in pages
2 through 6 of this judgment and the Statement of
Reasons. The sentence is imposed pursuant to the
Sentencing Reform Act of 1984.

- ☐ The defendant has been
found not guilty on count(s) _____
- ☐ Count(s) ____ ☐ is ☐ are dismissed on the
motion of the United States.

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

	<u>May 23, 2006</u>
	<u>Date of Imposition of Judgment</u>
	<u>[LJ] s/Leon Jordan</u>
	<u>United States District Judge</u>
ATTEST: a true copy	<u>Signature of Judicial Officer</u>
Certified this <u>5/30/06</u>	LEON JORDAN,
PATRICIA L. McNUTT,	<u>United States District Judge</u>
CLERK	<u>Name & Title of Judicial Officer</u>
by /s/ <u>[Illegible]</u>	<u>5-30-06</u>
Dep. Clerk	<u>Date</u>

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Num-ber(s)</u>
21 U.S.C. §§ 846 and 841(a)(1) and 21 U.S.C. § 841(b)(1)(A)	Conspiracy to Distribute and Possession with Intent to Distribute Five Kilograms or More of Cocaine Hydrochloride	02/11/05	1

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18 U.S.C. § 924(c)	Knowingly Possessed 02/11/05 a Firearm in Furtherance of a Drug Trafficking Crime	2,5
21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2	Aided and Abetted 02/11/05 in the Distribution of Five-Hundred Grams or More or Cocaine Hydrochloride	3
21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2	Aided and Abetted 02/11/05 in the Possession of Five-Hundred Grams or More of Cocaine Hydrochloride	4

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 211 months.

This term consists of 151 months as Counts 1, 3 and 4, to be served concurrently, and 60 months as to Counts 2 and 5, to run concurrently with one another, and consecutively to Counts 1, 3 and 4, for an effective sentence of 211 months.

[✓] The court makes the following recommendations to the Bureau of Prisons:

The court recommends that the defendant receive 500 hours of substance abuse treatment from the

BOP Institution Residential Drug Abuse Treatment Program. Also, the court recommends the defendant be designated to FMC Lexington, KY, FCI Ashland, KY or FCI Manchester, KY.

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
☐ at _____ ☐ a.m. ☐ p.m. on _____.
☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
☐ before 2 p.m. on _____.
☐ as notified by the United States Marshal.
☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

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

UNITED STATES MARSHAL
By _____
DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years.

This term consists of a term of 5 years as to each Counts 1, 2, 3, 4 and 5, all such terms to run concurrently.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

[] The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

[✓] The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)

[✓] The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)

- [] The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- [] The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;

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- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law

enforcement agency without the permission of the court;

- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

SPECIAL CONDITIONS OF SUPERVISION

- 1) The defendant shall participate in a program of testing and/or treatment for drug and/or alcohol abuse, as directed by the probation officer, until such time as he is released from the program by the probation officer.

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B. The assessment is ordered in accordance with 18 U.S.C. § 3013.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 500.00	\$	\$

- [] The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

- ☐ The defendant shall make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, if the United States is a victim, all other victims, if any, shall receive full restitution before the United States receives any restitution, and all restitution shall be paid to the victims before any restitution is paid to a provider of compensation, pursuant to 18 U.S.C. §3664.

<u>Name of Payee</u>	<u>*Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
TOTALS	\$ ____	\$ ____	

- ☐ If applicable, restitution amount ordered pursuant to plea agreement \$ ____

The defendant shall pay interest on any fine or restitution of more than \$2500, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ The interest requirement is waived for the
☐ fine and/or ☐ restitution.

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☐ The interest requirement for the ☐ fine and/or
☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994, but before April 23, 1996.

[SEAL]

**Office of the Attorney General
Washington, D.C. 20530**

August 12, 2013

MEMORANDUM TO THE UNITED STATES AT-
TORNEYS AND ASSISTANT ATTORNEY
GENERAL FOR THE CRIMINAL DIVISION

FROM: THE ATTORNEY GENERAL /s/ Eric
Holder Jr.

SUBJECT: Department Policy on Charging Manda-
tory Minimum Sentences and Recidivist
Enhancements in Certain Drug Cases

In *Alleyne v. United States*, 133 S.Ct. 2151 (2013), the Supreme Court held that any fact that increases the statutory mandatory minimum sentence is an element of the crime that must be submitted to the jury and found beyond a reasonable doubt. This means that for a defendant to be subject to a mandatory minimum sentence, prosecutors must ensure that the charging document includes those elements of the crime that trigger the statutory minimum penalty.

The Supreme Court's decision in *Alleyne* heightens the role a prosecutor plays in determining whether a defendant is subject to a mandatory minimum sentence. To be sure, the exercise of discretion over charging decisions has always been an "integral feature of the criminal justice system," *United States v. LaBonte*, 520 U.S. 751, 762 (1997), and is among the most important duties of a federal prosecutor. Current policy

requires prosecutors to conduct an individualized assessment of the extent to which charges fit the specific circumstances of the case, are consistent with the purpose of the federal criminal code, and maximize the impact of federal resources on crime. When making these individualized assessments, prosecutors must take into account numerous factors, such as the defendant's conduct and criminal history and the circumstances relating to the commission of the offense, the needs of the communities we serve, and federal resources and priorities.¹ Now that our charging decisions also affect when a defendant is subject to a mandatory minimum sentence, prosecutors must evaluate these factors in an equally thoughtful and reasoned manner.

It is with full consideration of these factors that we now refine our charging policy regarding mandatory minimums for certain nonviolent, low-level drug offenders. We must ensure that our most severe mandatory minimum penalties are reserved for serious, high-level, or violent drug traffickers. In some cases, mandatory minimum and recidivist enhancement statutes have resulted in unduly harsh sentences and perceived or actual disparities that do not reflect our Principles of Federal Prosecution. Long sentences for low-level, non-violent drug offenses do not promote public safety, deterrence, and rehabilitation. Moreover, rising prison costs have resulted in reduced spending on criminal justice initiatives, including spending on

¹ These factors are set out more fully in my memorandum of May 19, 2010 ("Department Policy on Charging and Sentencing") and Title 9 of the U.S. Attorneys' Manual, Chapter 27.

law enforcement agents, prosecutors, and prevention and intervention programs. These reductions in public safety spending require us to make our public safety expenditures smarter and more productive.

For all these reasons, I am issuing the following policy²:

Continuation of Charging and Sentencing Policies: Pursuant to my memorandum of May 19, 2010, prosecutors should continue to conduct “an individualized assessment of the extent to which particular charges fit the specific circumstances of the case, are consistent with the purpose of the Federal criminal code, and maximize the impact of Federal resources on crime.” While this means that prosecutors “should ordinarily charge the most serious offense that is consistent with the nature of the defendant’s conduct, and that is likely to result in a sustainable conviction,” the charges always should reflect an individualized assessment and fairly represent the defendant’s criminal conduct.

Certain Mandatory Minimum Sentencing Statutes Based on Drug Quantity: Prosecutors should continue to ascertain whether a defendant is eligible for any statutory mandatory minimum statute or enhancement. However, in cases involving the applicability of Title 21 mandatory minimum sentences based on drug type and quantity, prosecutors should

² The policy set forth herein is not intended to create or confer any rights, privileges, or benefits in any matter, case, or proceeding. *See United States v. Caceres*, 440 U.S. 741 (1979).

decline to charge the quantity necessary to trigger a mandatory minimum sentence if the defendant meets each of the following criteria:³

- The defendant's relevant conduct does not involve the use of violence, the credible threat of violence, the possession of a weapon, the trafficking of drugs to or with minors, or the death or serious bodily injury of any person;
- The defendant is not an organizer, leader, manager or supervisor of others within a criminal organization;
- The defendant does not have significant ties to large-scale drug trafficking organizations, gangs, or cartels; and
- The defendant does not have a significant criminal history. A significant criminal history will normally be evidenced by three or more criminal history points but may involve fewer or greater depending on the nature of any prior convictions.

Timing and Plea Agreements: If information sufficient to determine that a defendant meets the above criteria is available at the time initial charges are filed, prosecutors should decline to pursue charges triggering a mandatory minimum sentence. However,

³ As with every case, prosecutors should determine, as a threshold matter, whether a case serves a substantial federal interest. In some cases, satisfaction of the above criteria meant for low-level, nonviolent drug offenders may indicate that prosecution would not serve a substantial federal interest and that the case should not be brought federally.

if this information is not yet available, prosecutors may file charges involving these mandatory minimum statutes pending further information and a determination as to whether a defendant meets the above criteria. If the defendant ultimately meets the criteria, prosecutors should pursue a disposition that does not require a Title 21 mandatory minimum sentence. For example, a prosecutor could ask the grand jury to supersede the indictment with charges that do not trigger the mandatory minimum, or a defendant could plead guilty to a lesser included offense, or waive indictment and plead guilty to a superseding information that does not charge the quantity necessary to trigger the mandatory minimum.

Advocacy at Sentencing: Prosecutors must be candid with the court, probation, and the public as to the full extent of the defendant's culpability, including the quantity of drugs involved in the offense and the quantity attributable to the defendant's role in the offense, even if the charging document lacks such specificity. Prosecutors also should continue to accurately calculate the sentencing range under the United States Sentencing Guidelines. In cases where the properly calculated guideline range meets or exceeds the mandatory minimum, prosecutors should consider whether a below-guidelines sentence is sufficient to satisfy the purposes of sentencing as set forth in 18 U.S.C. § 3553(a). In determining the appropriate sentence to recommend to the Court, prosecutors should consider whether the defendant truthfully and in a timely way provided to the Government all

information the defendant has concerning the offense or offenses that were part of the same course of conduct, common scheme, or plan.

Recidivist Enhancements: Prosecutors should decline to file an information pursuant to 21 U.S.C. § 851 unless the defendant is involved in conduct that makes the case appropriate for severe sanctions. When determining whether an enhancement is appropriate, prosecutors should consider the following factors:

- Whether the defendant was an organizer, leader, manager or supervisor of others within a criminal organization;
- Whether the defendant was involved in the use or threat of violence in connection with the offense;
- The nature of the defendant's criminal history, including any prior history of violent conduct or recent prior convictions for serious offenses;
- Whether the defendant has significant ties to large-scale drug trafficking organizations, gangs, or cartels;
- Whether the filing would create a gross sentencing disparity with equally or more culpable co-defendants; and
- Other case-specific aggravating or mitigating factors.

In keeping with current policy, prosecutors are reminded that all charging decisions must be reviewed

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by a supervisory attorney to ensure adherence to the Principles of Federal Prosecution, the guidance provided by my May 19, 2010 memorandum, and the policy outlined in this memorandum.
