UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

MAR 30 1998

U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
vs.	)	Case No. S1-4:97CR301SNL (MLM)
WILLIE E. BOYD,	)	
Defendant.	)	

ORDER AND REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

This matter is before the court on the motions of the parties. Pretrial matters were referred to the undersigned United States Magistrate Judge under 28 U.S.C. §636(b). An evidentiary hearing was held on October 6, 1997 and a Report and Recommendation was issued on October 22, 1997. [28] A superseding indictment was filed on December 4, 1997. Evidentiary hearings were held on January 30, 1998 and February 13, 1998. This case is set for trial on April 13, 1998.

Counts I - IV of the superseding indictment track the charges in the original four count indictment. All of the suppression issues surrounding these counts have been dealt with in the previous Report and Recommendation filed by the undersigned. They will not be repeated herein. This Report and Recommendation will deal with suppression issues in Counts V - X[1]. It also covers

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[1] There is a typographical error in the indictment in Count IX. The date of the offense should be **November 6, 1995**, not February 1, 1997. The government has indicated an intention to

discovery concerning the events of February 1, 1997 and November 6, 1995.

DISCOVERY MATTERS

1. Defendant's Motion to Compel Inspection and Discovery [45]

At defendant's arraignment on the superseding indictment, the parties were again given the court's order concerning pretrial motions. The parties were directed to **request pretrial disclosure of evidence or information from opposing counsel and were directed to respond to such requests.** Any motion **seeking a court order** for the production of evidence or information was required to contain a certification that the parties had conferred, that there was a good basis for the request, and that the requested evidence or information had been refused by the opposing party. Defendant has filed a Motion to Compel Discovery which does not contain the required certification. This motion is not in compliance with the court's Order and will be denied for that reason. However, the government has fully responded to the motion [46] and the court finds the response is full, adequate and consistent with the discovery requirements of Rule 16 of the Federal Rules of Criminal Procedure. Therefore, the motion will also be denied as moot.

The government has filed a separate Memorandum and Response dealing with the defendant's request for grand jury subpoenas and

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have this error rectified. See Government's Memorandum and Response to Defendant's Motion to Sever the Offenses, page 4 n.1 [55].

other grand jury materials [60] and defendant has submitted a separate Reply [61]. Defendant is entitled to inspection of ministerial records regarding the empaneling of grand juries in this district. United State v. Alden, 576 F.2d 772 (8th Cir.), cert. denied, 439 U.S. 855 (1978). See also, Test v. United States, 420 U.S. 28, 30 (1975). Defendant's counsel may inspect materials of this nature, subject to an appropriate protective order, at a mutually agreeable time and place.

Rule 6(e)(3)(C)(II) of the Federal Rules of Criminal Procedure provides that disclosure of grand jury materials may be had "when permitted by a court at the request of the defendant, upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury." Fed.R.Crim.P. 6(e)(3)(C)(II). The Eighth Circuit has expressed the balance between the policy of secrecy which is to be afforded grand jury proceedings and the limited exceptions in which disclosure may be made by recognizing that "the party moving for disclosure must establish a `particularized need.'" Thomas v. United States, 597 F.2d 656, 657 (8th Cir. 1979) and cases cited therein; United States v. Faltico, 687 F.2d 273, 276 (8th Cir. 1982), cert. denied, 460 U.S. 1088 (1983). See also Smith v. United States, 423 U.S. 1303, 1304 (1975). Defendant has not shown a particularized need for the grand jury records requested. "Such `fishing expeditions' do not provide sufficient grounds for disclosure." Thomas v. United States, 597 F.2d at 658 and cases cited therein. Accordingly, defendant has failed to demonstrate the

"particularized need" required to justify disclosure of otherwise secret grand jury materials. The defendant's Motion to Compel will be specifically denied as to the requested grand jury materials.

2. Defendant's Motion to Compel Identity of All Informants and to Produce Them [50]

In regard to the arrest on February 1, 1997, defendant requests the identity of the informant who told United States Deputy Marshal Adler that defendant was residing at 2091 Victory Way Lane. The law is well settled that the government has a privilege to withhold the disclosure of the identity of its informants. McCray v. Illinois, 386 U.S. 300 (1967). "The defendant bears the burden of demonstrating the need for disclosure and the court must weigh the defendant's right to information against the Government's privilege to withhold the identity of its confidential informants." United States v. Harrington, 951 F.2d 876, 877 (8th Cir. 1991). See also McCray, 386 U.S. at 310; Roviaro v. United States, 353 U.S. 53, 60-61 and 62 (1957). "In order to override the government's privilege of nondisclosure, defendants must establish beyond mere speculation that the informant's testimony will be material to the determination of the case." Harrington, 951 F.2d at 877. "A trial court abuses its discretion if it orders disclosure absent a showing of materiality." Id.; United States v. Grisham, 748 F.2d 460, 463 (8th Cir. 1984).

If there is a reasonable probability that a confidential informant can give testimony helpful to the defense, Branzburg v. Hayes, 408 U.S. 665, 698 (1972), or if his testimony is essential to a fair trial, Roviaro v. United States, 353 U.S. 53, 60-61 (1957), the government must disclose the informant's identity. United States v. McManus, 560 F.2d 747, 751 (6th Cir. 1977), cert. denied, 343 U.S. 1047 (1978). However, the Eighth Circuit has held that the government is not required to disclose an informant's identity where the disclosure "was not vital to a fair trial, and the government's interest in preserving the flow of information outweighed any need by the defendant for information." United States v. Weir, 575 F.2d 668, 673 (8th Cir. 1978).

Deputy Adler testified he corroborated the information given by the informant by talking to various residents of the area, all of whom said defendant resided at 2091 Victory Way Lane. None of them wished to be involved in the case. The informant's role in the present case was extremely limited and there is no basis for disclosing his/her identity. See McCray v. Illinois, 386 U.S. 300 (1967); Roviaro v. United States, 353 U.S. 53 (1957). There has been no showing that the informant is a material witness or that his/her testimony is necessary to the defense. To the contrary, this informant appears to have been a "mere tipster" who is not considered a material witness whose identity must be disclosed. See United States v. Burrell, 720 F.2d 1488, 1494 n.8 (10th Cir. 1983); United States v. Lewis, 671 F.2d 1025, 1026-27 (7th Cir. 1982). This motion will be denied.

3. Motion for Further Suppression of Evidence [52-1] and Disclosure of Informant's Identity with Regard to Incident of November 7, 1995[2] [52-2]

Defendant seeks the identity of the confidential informant (CI) who advised the police that individuals were engaged in the sale of crack cocaine from the lobby at Cole's Motor Lodge at 4531 Natural Bridge. Detective Froehlich testified that he has used this CI before, that he considers him/her reliable, and that he/she has provided information resulting in the conviction of more than twenty individuals for drugs and weapons charges. To corroborate the information, the officers set up surveillance and observed what they believed to be seven drug transactions. They knew that numerous arrests for drugs and weapons violations had been made at this particular motel and its parking lot.

The defendant cannot prove facts which establish the materiality of the informant's testimony. "In order to override the government's privilege of nondisclosure, defendants must establish beyond mere speculation that the informant's testimony will be material to the determination of the case." United States v. Harrington, 951 F.2d 876, 877 (8th Cir. 1991). "A trial court abuses its discretion if it orders disclosure absent a showing of materiality." Id. United States v. Grisham, 748 F.2d 460, 463 (8th Cir. 1984). "In cases involving tipsters who merely convey information to the government but neither witness nor participate

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[2] Defendant repeatedly refers to "the November 7, 1995 incident". The indictment refers to November 6, 1995 and each of the witnesses at the hearings referred to November 6, 1995. The undersigned will assume defendant means November 6, 1995.

in the offense, disclosure is generally not material to the outcome of the case and is therefore not required." Harrington, 951 F.2d at 878; United States v. Bourbon, 819 F.2d 856 (8th Cir. 1987).

There is no evidence the CI was present at the scene when the detectives entered the motel. His/her testimony is not material to the outcome of the case. The motion for disclosure will be denied and the undersigned will recommend that the motion to suppress all evidence pertaining to the November 6, 1995 incident be denied.

4. Defendant's Motion to Compel Government's Production of Investigative Reports of All Law Enforcement Officers Who Will Testify at the January 30, 1998 Hearing [53]

The response filed January 22, 1998 [54] indicates that the government had provided defendant with all Rule 16 discovery and had already turned over all investigative reports concerning the November 6, 1995 incident. The motion is not in compliance with the court's Order. It will be denied both for that reason and because it is moot.

DEFENDANT'S OTHER MOTIONS

5. Defendant's Motion to Dismiss the Superseding Indictment [49]

Defendant has moved to dismiss the indictment on grounds that it is vague, uncertain, indefinite, ambiguous and duplicitous, that it does not contain a plain, concise and definite statement of the essential facts constituting the offenses charged, and that it fails to inform the defendant of the nature of the charges against him. He further alleges that the indictment fails to allege sufficient facts to constitute an offense against the constitution

or laws of the United States. In addition to allegations that the indictment was based on insufficient competent evidence having been presented to the grand jury, defendant alleges that the indictment charges him under laws which are illegal, void and unconstitutional as applied to defendant.

To be legally sufficient on its face, the indictment must contain all the essential elements of the offenses charged, it must fairly inform the defendant of the charges against which the defendant must defend, and it must allege sufficient information to allow the defendant to plead a conviction or an acquittal as a bar to a subsequent prosecution. United States Const. Amends. V and VI; Fed.R.Crim.P. 7(c); Hamling v. United States, 418 U.S. 87, 117 (1974); United States v. Just, 74 F.3d 902, 903-04 (8th Cir. 1996); United States v. Wessels, 12 F.3d 746, 750 (8th Cir. 1993), cert. denied, 513 U.S. 831, (1994); United States v. Young, 618 F.2d 1281, 1286 (8th Cir.), cert. denied, 449 U.S. 844 (1980).

The undersigned has already dealt with Counts I - IV in the Report and Recommendation dated October 22, 1997 [28] and it is incorporated by reference as if fully set out herein.

Counts V, VI, and VII charge defendant with violation of the currency transaction reporting requirements of 31 U.S.C. § 5324(a)(2). The elements of this crime are: (1) the defendant had knowledge of the currency transaction reporting requirements; (2) the defendant knowingly caused or attempted to cause a domestic financial institution to file a report required under § 5313(a) that contained a misstatement of fact; (3) the misstatement of fact

was material; (4) the defendant did so for the purpose of evading the reporting requirements of § 5313(a) with respect to such transactions.

In Counts VIII and IX, the defendant is charged with violations of 18 U.S.C. § 922(g)(1). The essential elements of this charge are: (1) the defendant has previously been convicted of a crime punishable by imprisonment for a term exceeding one year; (2) the defendant thereafter knowingly possessed a firearm; and (3) this possession was in or affecting interstate commerce, in that this firearm was transported across state lines prior to the defendant's possession. See Scarborough v. United States, 431 U.S. 563 (1977); United States v. Williams, 941 F.2d 682 (8th Cir. 1991).

Count X is a forfeiture count which alleges that the property involved in Counts V - VII is subject to forfeiture. 18 U.S.C. § 982(a)(1).

This indictment charges every element of every charge. It states the dates and gives specific information for defendant to plead a conviction or acquittal as a bar to a subsequent prosecution. It is legally sufficient on its face.

The defendant alleges that the indictment was returned on the basis of insufficient and/or incompetent evidence. An indictment valid on its face is immune from attack by a claim that there was insufficient competent evidence presented to the grand jury. United States v. Calandra, 414 U.S. 338, 349-52 (1974); Costello v. United States, 350 U.S. 359, 363-64 (1956).

An indictment may be based in whole or in part on hearsay evidence, Pittsburgh Plate Glass Co. v. United States, 360 U.S. 395 (1959); United States v. Bednar, 728 F.2d 1043, 1049 (8th Cir.), cert. denied, 469 U.S. 827 (1984). The government states that no illegally seized evidence was presented to the grand jury in the present case, however, even if it had been, the indictment would not be rendered invalid by such evidence. United States v. Calandra, 414 U.S. 338, 354 (presentation of inadmissible evidence to grand jury involves no independent or new violation of the Fourth Amendment); United States v. Levine, 700 F.2d 1176, 1179 (8th Cir. 1983) (the exclusionary rule does not prohibit illegally seized evidence from being considered by a grand jury).

This indictment is a plain, concise and definite statement of the essential facts constituting the offenses charged and complies in all respects with Rule 7 of the Federal Rules of Criminal Procedure. It tracks the language of the statutes and places the defendant on notice of the nature and extent of the charges in order to protect him from double jeopardy. See Hamling, 418 U.S. at 117; Young, 618 F.2d at 1286. The Superseding Indictment should not be dismissed

6. Defendant's Motion to Sever Offenses [43]

A. Joinder

The initial inquiry is whether, as a matter of law, the counts of the indictment are properly joined. See United States v. Rodgers, 732 F.2d 625, 628 (8th Cir. 1984). Rule 8(a) of the Federal Rules of Criminal Procedure permits joinder of two or more

offenses in an indictment "if the offenses charged...are of the same or similar character, or are based on the same act or transaction or on two or more acts or transactions connected together or constituting parts of a common scheme or plan." Fed. R. Crim. P. 8(a).

The joinder of offenses is the favored practice, United States v. Humphreys, 982 F.2d 254, 259 (8th Cir.), cert. denied, 510 U.S. 814 (1993), and Rule 8 should be broadly construed in favor of initial joinder. Rodgers, 732 F.2d at 629. Joinder is proper when the counts "refer to the same type of offenses occurring over a relatively short period of time and the evidence as to each count overlaps." United States v. Davis, 103 F.3d 660, 676 (8th Cir. 1996), cert. denied, 117 S.Ct. 2424 (1997) quoting United States v. Shearer, 606 F2.d 819, 820 (8th Cir. 1979); United States v. Robaina, 39 F.3d 858, 861 (8th Cir. 1994).

"Rule 8(a) is not limited to crimes of the 'same character' but also covers those of 'similar' character, which means '[n]early corresponding; resembling in many respects; somewhat alike; having a general likeness." United States v. Lindsey, 782 F.2d 116, 117 (8th Cir. 1986) quoting United States v. Werner, 620 F.2d 922, 926 (2nd Cir. 1980) (quoting Webster's New International Dictionary (2nd Ed.)).

In the present case, the time period between the earliest offense and the latest offense is less than nineteen months (July 7, 1995 in Count V to February 1, 1997 in Count I). The Eighth Circuit has held that a twenty month period of time does not

violate the "relatively short period of time" factor referred to in Shearer. Rodgers, 732 F.2d at 629. See also Lindsey, 782 F.2d at 117 (approving seventeen month period); United States v. Hastings, 577 F.2d 38 (8th Cir. 1978) (approving two year period); United States v. Sanders, 463 F.2d 1086 (8th Cir. 1972) (approving eight month period); Johnson v. United States, 356 F.2d 680 (8th Cir.) (approving five month period), cert. denied 385 U.S. 857 (1966). "[T]he time-period factor is to be determined on a case by case approach." Rodgers, 732 F.2d at 629.

The "relatively short time" factor is not violated in the present case. Here, the analysis is most easily considered working back from the time of defendant's arrest on a parole violation on February 1, 1997 as "Willie E. Boyd". The parole violation had been issued on March 26, 1996 but the United States Marshals Service was unable to locate defendant because of his use of aliases. As more fully set out in the summary of facts below, when he was arrested on February 1, 1997, the officers seized narcotics (Count I), a firearm (Count II) and two false identifications (Counts III and IV). Investigation of one of the I.D.'s in the name of "Billy Jackson" led to the discovery of the currency reporting violations (Counts V - VII) and eventually to the discovery of the arrest of defendant as "Billy Jackson" on November 6, 1995 (Counts VIII - IX). Under these circumstances, where the span of time is extended by defendant's own actions, the "time factor" is not violated. Rodgers, 732 F.2d at 629.

A brief summary of the facts of this case shows that defendant's use of the identity of Billy Jackson and his involvement in felonious activity cannot be separated. This broadly satisfies the similar character requirement. At the time of defendant's arrest on February 1, 1997 for a parole violation, he was found to be in possession of a firearm, cocaine and two false identifications. One identification was a Missouri Drivers License issued to a "Billy Jackson" with defendant's photograph and the Social Security Number of 493-62-5241. The other was a Missouri Non-Drivers License also with defendant's photograph and another Social Security Number. Investigation of the identifications revealed that the real Billy Jackson with the above-noted Social Security Number died in 1980. Three Currency Transaction Reports for a person using the identity of the deceased Billy Jackson were filed with the IRS on 7/5/95, 8/5/95 and 9/16/95 for more than $30,000 transacted at the Casino Queen. Photographs of this "Billy Jackson" gambling at the Casino Queen were photographs of defendant. Defendant presented a Missouri Drivers License for "Billy Jackson" with the same Social Security Number to the Casino Queen prior to the Casino Queen's filling out the Currency Transaction Reports. This license was the earlier version of the one defendant had in his possession on February 1, 1997, which was a renewal. Defendant was arrested as "Billy Jackson" on November 6, 1995 for possession of firearms (Counts VIII and IX). Defendant signed his booking form, was photographed and used the same Social Security Number as "Billy Jackson" when arrested.

Latent fingerprints proved that "Billy Jackson" was really the defendant.

Possession of different types of firearms clearly fits the "same type of offense" test. Here, defendant was a felon in possession of a Glock .9mm pistol on 2-7-97 (Count II) and a .357 Magnum revolver and a .20 gauge double barreled shotgun on 11/6/95 (Counts VIII and IX). Lindsey, 782 F.2d at 117; see also United States v. Redding, 16 F.3d 298, 299, 300 (8th Cir. 1994) (felon in possession of different weapons, ammunition and robbery in four counts). In addition, defendant's predicate felonies are the same for each of the felon in possession counts.

The possession of drugs (Count I) is so integrally related to the possession of firearms as to be properly joined. See United States v. Fuller, 887 F.2d 144, 147 (8th Cir. 1989)(close and well-known connection between firearms and drugs), cert. denied, 496 U.S. 908 (1990); United States v. Simon, 767 F.2d 524, 527 (8th Cir.) (firearms are tools of the trade of narcotics dealing), cert. denied, 474 U.S. 1013 (1985).

The Eighth Circuit has upheld joinder when the evidence as to one count is developed in the course of the investigation of another count and the evidence somewhat overlaps. Lindsey, 782 F.2d at 118.

The Eighth Circuit has also found joinder proper when the evidence regarding one count could be used as Rule 404(b) evidence as proof of another count. Rodgers, 732 F.2d at 630. Although the admission of evidence is strictly and solely for the trial court to

determine, and should not be assumed or presupposed, the following arguments are persuasive in resolving the joinder issue.

Rule 404(b) of the Federal Rules of Evidence provides that evidence of other crimes, wrongs or acts is admissible to prove "motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident." Fed. R. Evid. 404(b); United States v. Shoffner, 71 F.3d 1429, 1432 (8th Cir. 1995). This rule "is a rule of inclusion, prohibiting only evidence that tends solely to prove the defendant's criminal disposition. Id.

The government must prove a mental element in Counts I, II, VIII and IX, that is, that defendant knowingly possessed the drugs and the various weapons. The Eighth Circuit has held that "[w]hen a defendant raises the issue of mental state, whether by a `mere presence' defense that specifically challenges the mental element of the government's case or by means of a general denial that forces the government to prove every element of its case, prior bad acts evidence is admissible because mental state is a material issue." United States v. Thomas, 58 F.3d 1318, 1322 (8th Cir. 1995). The government reasonably believes that defendant will raise a mere presence defense to Counts I and II and may use this defense or a general denial for Counts VIII and IX. This challenges the mental element of the government's case that the defendant knowingly possessed the drugs in Count I and the weapons in Counts II, VIII and IX. See Thomas, 58 F.3d at 1322; Shoffner, 71 F.3d at 1432 (prior drug dealing tends to prove motive, knowledge and absence of mistake to rebut defense of merely present

and unaware); United States v. Mihm, 13 F.3d 1200 (8th Cir. 1994) (404(b) evidence relevant with `mere presence' defense); See generally United States v. Wiley, 29 F.3d 345 (8th Cir.), cert. denied, 513 U.S. 1005 (1994); United States v. Kline, 13 F.3d 1182, 1185 (8th Cir.), cert. denied, 52 U.S. 1226 (1994); United States v. Lego, 855 F.2d 542, 545 (8th Cir. 1988).

The evidence of the events of November 6, 1995 during which defendant possessed crack cocaine and two guns (Counts VIII and IX) is also relevant 404(b) evidence tending to show intent and knowledge with regard to defendant's possession of cocaine in Count I. United States v. Logan, 121 F.3d 1172, 1178 (8th Cir. 1997).

At first glance, the evidence of the use of the false identities and Social Security Numbers in Counts III and IV and the making of the false Currency Reporting Transactions in Counts V, VI and VII may not appear integrally related to the various narcotics and gun counts (Counts I, II, VIII and IX). Nevertheless, analysis shows they are properly joined. Defendant used the false Billy Jackson identity when he expended approximately $30,000 in a three month period in 1995. (Counts V - VII) Evidence of unexplained wealth is admissible against a defendant charged with a crime in which pecuniary gain is the usual motive. United States v. Crisp, 435 F.2d 354, 360 (7th Cir. 1970) (sudden unexplained wealth is competent evidence supporting proof of guilt in crimes involving motive of enrichment) cert. denied, 402 U.S. 947 (1971). In addition, the evidence of the use of the false Billy Jackson

identification and Social Security Number would be admissible in separate trials to show the identity of defendant under Rule 404(b). United States v. Davis, 103 F.3d 660, 676 (8th Cir. 1996) (evidence admissible under Rule 404(b) to prove identity) cert.denied, 117 S.Ct. 2424 (1997); United States v. Patterson, 20 F.3d 801, 805 (8th Cir.) (same), cert. denied, 513 U.S. 845 (1994).

The ten counts of this indictment are interrelated. The evidence admissible on some counts overlaps the evidence admissible on others. Even if the trial court should find that some of the counts are not similar enough in character, there is a general "common scheme or plan". Fed. R. Crim. P. 8(a). Defendant was using the false identification and Social Security Number of Billy Jackson to engage in a pattern of felonious conduct and to evade identification. He used it when arrested on November 6, 1995, when he displayed it on the Casino Queen, when he filled out the Currency Transaction Reports, when he evaded capture by the United States Marshals from 1996 through February 1, 1997 and this identification was found in his possession when he was arrested on February 1, 1997. The counts of this indictment are properly joined.

B. Severance

Even if offenses are properly joined under Fed. R. Crim. P. 8(a) the district court may nevertheless order separate trials of the counts under Fed. R. Crim. P. 14 "[i]f it appears that a defendant or the government is prejudiced by joinder of the offenses." Fed. R. Crim. P. 14; United States v. Davis, 103 F.3d

660, 676 (8th Cir. 1996). "The decision to sever is within the sound discretion of the trial judge and denial of a motion to sever is not subject to reversal absent a showing of real prejudice." Id., quoting United States v. Patterson, 20 F.3d 801, 805 (8th Cir. 1994) (internal quotations omitted). Defendant bears a heavy burden in demonstrating prejudice. United States v. Humphreys, 982 F.2d 254 (8th Cir.), cert. denied, 510 U.S. 814 (1993); United States v. Starr, 584 F.2d 235 (8th Cir. 1978) cert. denied, 493 U.S. 1115 (1979); see also United States v. Shearer, 606 F.2d 819, 820 (8th Cir. 1979), and cases cited therein. In the present case, defendant has failed to meet his burden. "A defendant does not suffer prejudice by a joint trial if the evidence is such that one crime would be probative and admissible at the defendant's separate trial of the other crime." Davis, 103 F.3d at 676. As described above, the evidence in this case is such that evidence admissible as to some of the counts would be admissible as to the others. See United States v. Robaina, 39 F.3d 858, 861 (8th Cir. 1994).

The evidence in this case is straight forward and the jury will easily be able to distinguish between the evidence presented on each separate count. See Shearer, 606 F.2d at 821. The jury will not use evidence of one crime to infer guilt on the other, Davis, 103 F.3d at 676, or to cumulate the evidence to find guilt on all crimes when it would not have found guilt if the counts were considered separately. Id. The nature of the evidence in this case is such that neither of these results is reasonable.

Therefore, the defendant's Motion to Sever Offenses should be denied.

7. Defendant's Motion to Suppress Evidence [48]

To the extent this motion requests the suppression of evidence connected with the February 1, 1997 incident, the court incorporates by reference as if fully set out herein, the Report and Recommendation of October 22, 1997 [28] which dealt with that incident in depth. To the extent this motion requests the suppression of electronic surveillance of defendant's conversations while he was incarcerated and the narcotics, firearms, and other items seized from defendant on February 6, 1995, the court has considered the evidence and testimony adduced and, having had an opportunity to evaluate the credibility of the witnesses, makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

At the second evidentiary hearing on January 30, 1998, the government presented the testimony of Mike Gelios, a Special Investigative Support Technician of the Federal Bureau of Prisons and Detective Robert Froehlich, a police officer with the St. Louis Metropolitan Police Department for thirty-two years. At the third evidentiary hearing on February 13, 1998, defendant called Vince Arisman, the Trust Fund Supervisor of the Federal Correctional Institution (FCI) in Greenville, Illinois; Stan Butterfield, a paralegal specialist at the FCI in Greenville; and Detectives

Charles Beyersdorfer and Bobby Garrett of the St. Louis Metropolitan Police Department.

A. **Recorded Conversation**

When a defendant is admitted to the FCI at Greenville, Illinois he is presented with Inmate Acknowledgment Form #408 which he must sign to acknowledge that he is aware that all telephone conversations except those with his attorney will be monitored and recorded. Defendant signed this form on March 3, 1997 when he was admitted to FCI Greenville. Gov. Ex. 1. Defendant was also given at the same time an Inmate Admissions Orientation Handbook which states that all calls are subject to monitoring and recording. Gov. Ex. 4. Over each phone which inmates may use at FCI Greenville, there is a prominent notice:

> Pursuant to Bureau of Prison's Inmate Telephone Regulations, all conversations on this phone are subject to monitoring. Your use of this telephone constitutes consent to this monitoring. You must contact your unit team to request an unmonitored attorney call.

See photographs, Gov. Ex. 2 and 3.

A master tape is made of all recorded calls. A phone call to which defendant was a party was recorded on May 13, 1997 at approximately 6:47 P.M. It was taken off the master tape on August 21, 1997 in response to a grand jury subpoena.

B. **November 6, 1995**

On November 6, 1996 Detective Robert Froehlich, who has been involved in narcotics investigations for thirty years, received information from a confidential informant (CI) that individuals

were selling crack cocaine at the Cole's Motor Lodge on Natural Bridge. This CI has been used by Detective Froehlich and other members of the St. Louis Metropolitan Police Department, he/she is considered reliable and his/her information has led to convictions and arrests on at least twenty occasions. Detective Froehlich was familiar with Cole's Motor Lodge because he has executed Search Warrants there and made narcotics arrests there on previous occasions. It is known as a location for prostitution, gambling, drugs and violence.

At approximately 9:00 P.M. Detective Froehlich and his two partners surveilled the motel and saw, over a brief period of time, seven individuals enter the motel and conduct short transactions. Specifically, they observed defendant come out of a door adjacent to the lobby and exchange something for money provided by the various individuals, who then immediately left the motel. The officers, based on their experience, believed they were observing drug transactions.

The officers entered the public lobby area and knocked on the door adjacent to the lobby for the purpose of obtaining the name of the person inside. Defendant opened the door and officers observed a shotgun in the southeast corner of the room. When defendant saw the officers he attempted to close the door. Detective Froehlich heard what he believed to be a firearm hit the floor as well as the sound of someone running and a toilet flushing. Based on the information from the CI, the observations of the officers during surveillance and through the open door, the sounds of a gun

dropping, someone running and a toilet flushing, and their knowledge of the reputation of the motel for narcotics and violence, the officers believed, based on their experience and training, that it was necessary to enter the room and, at the very least, to seize the firearms for their safety and the safety of others.

Defendant was not able to close the door entirely. The officers shouted "police officers" and pushed open the door. They seized the shotgun, a .357 magnum Ruger on the floor at defendant's feet, a .45 caliber firearm several feet to the rear of defendant and a plastic bag containing an off-white, rock-like substance. They placed defendant under arrest and advised him verbally of his constitutional rights. They told him he had a right to remain silent; that anything he said could and would be used against him in a court of law; that he had the right to an attorney; that he had the right to have an attorney present during his interrogation or his questioning; and if he could not afford an attorney, one would be provided for him.

An individual later identified as Larry Hassell came out of the bathroom where the officers had heard the toilet being flushed. Detective Froehlich testified that in his experience, narcotics are frequently flushed down toilets to get rid of the evidence.

Defendant was searched incident to his arrest and $775 in United States currency was found on his person. Later defendant was taken to the police station where he stated he was waiting for the owner of the motel, who was a friend of his. He said he

carried a firearm for his protection. Defendant gave his name as Billy Jackson and was booked and photographed using that name. He signed the booking sheet in that name and had a "Billy Jackson" drivers license as well.

CONCLUSIONS OF LAW

A. Recorded Conversation

The Eighth Circuit has specifically approved the monitoring and taping of inmate conversations on the grounds that 18 U.S.C. § 2511(2)(c) permits law enforcement officers "to intercept a wire, oral, or electronic communication where...one of the parties to the communication has given prior consent to such interception." United States v. Horr, 963 F.2d 1124, 1126 (8th Cir.), cert. denied, 506 U.S. 848 (1992).

Defendant impliedly consented to the taping of his telephone conversations. Upon entering the Federal Correctional Institution, he was given the Admissions and Orientation Handbook which indicated inmate calls are monitored and recorded. He was told about the policy and signed Inmate Acknowledgment Form #408 indicating he was aware that all calls except those with an attorney are monitored and recorded. Over each phone is posted a notice that the phone is monitored and the use of the phone constitutes consent to the monitoring. Defendant consented to the monitoring by his use of the phone and thereby relinquished any expectation of privacy in his call. Id. The taping did not

violate his Fourth Amendment rights and the evidence should not be suppressed.

B. Knock on Door and Plain View

"When an individual voluntarily opens the door of his or her place of residence in response to a simple knock, the individual is knowingly exposing to the public anything that can be seen through that open door and thus is not afforded Fourth Amendment protection." United States v. Peters, 912 F.2d 208, 210 (9th Cir. 1990), cert. denied, 498 U.S. 1094 (1991), see also United States v. Wright, 641 F.2d 602, 604 (8th Cir.) cert. denied, 451 U.S. 1021 (1981); Katz v. United States, 389 U.S. 347, 351 (1967)("what a person knowingly exposes to the public, even in his or her own home or office, is not a subject of Fourth Amendment protection.").

When police officers are lawfully in a particular location and observe items in plain view which they have probable cause to believe are contraband or evidence of a crime, they may seize such items without a warrant. Coolidge v. New Hampshire, 403 U.S. 443, 464-73 (1971); Arizona v. Hicks, 480 U.S. 321, 326 (1987); United States v. Garner, 907 F.2d 60, 62 (8th Cir. 1990), cert. denied, 498 U.S. 1068 (1991). There is no requirement that the discovery be inadvertent. Horton v. California, 496 U.S. 128, ___, 110 S.Ct. 2301, 2308-11 (1990).

No search occurred when Detective Froehlich and the other officers knocked on the door adjoining the public lobby, defendant opened it and the officers observed the shotgun in plain view.

C. Exigent Circumstances

The officers saw a shotgun, defendant tried to slam the door, they heard the thud of a gun to the floor, heard the sound of running and the flush of a toilet. The officers then entered the motel room.

The court recognizes only a few emergency conditions that fall under the doctrine of exigent circumstances. One test is "whether the exceedingly strong privacy interest in one's residence is outweighed by the risk that delay will engender injury, destruction of evidence, or escape." United States v. Diaz, 814 F.2d 454, 458 (7th Cir.), cert. denied, 484 U.S. 857 (1987), quoting United States v. Acevedo, 627 F.2d 68, 70 (7th Cir.), cert. denied, 449 U.S. 1021 (1980). Where there is probable cause, the court has found exigent circumstances when evidence is in danger of destruction, Ker v. California, 374 U.S. 23, 41-42 (1963); when the police are in hot pursuit of a suspect, United States v. Santana, 427 U.S. 38, 42-43 (1976); when narcotics can be destroyed easily and quickly, United States v. Parris, 17 F.3d 227, 229 (8th Cir.), cert. denied, 114 S.Ct. 1662 (1994); or when the safety of law enforcement officers or the general public is threatened, Warden v. Hayden, 387 U.S. 294, 298-99 (1967). Here the officers had a reasonable concern for the safety of themselves and others because of the gun they had observed. They knew of the violence and drug sales connected to this motel and they had observed numerous drug transactions. In addition, they had a reasonable belief that contraband was being destroyed when they heard the sound of running

and a flushing toilet. The seizure of the shotgun, the Ruger, the .45 caliber firearm and the crack cocaine were proper and the evidence should not be suppressed.

D. Defendant's Statement

Because it was a custodial interrogation, defendant was advised of his Miranda rights as described in the statement of facts herein. Miranda v. Arizona, 384 U.S. 436 (1966). Defendant acknowledged that he understood each right and all the rights and voluntarily waived them by making statements. Patterson v. Illinois, 487 U.S. 285, 292-93 (1988).

There is no requirement that Miranda warnings be given in any specific words. Duckworth v. Eagan, 492 U.S. 195, 109 S.Ct. 2875, 2879 (1989). The rights are "not themselves rights protected by the Constitution but [are] instead measures to ensure that the right against compulsory self-incrimination [is] protected." Michigan v. Tucker, 417 U.S. 433, 444 (1974). Therefore, defendant was fully and completely advised of his Miranda rights. In addition, there is no evidence that promises, threats, pressure or coercion induced him to make the statement. His statement was, therefore, voluntary. Colorado v. Connelly, 479 U.S. 157, 167 (1986). This statement should not be suppressed.

E. Search Incident

The search of defendant's person was lawful because it was incident to his lawful arrest. Chimel v. California, 395 U.S. 752, 763 (1969); United States v. Robinson, 414 U.S. 218, 235 (1973);

New York v. Belton, 453 U.S. 454 (1981). Therefore, the items found on defendant's person should not be suppressed.

Accordingly,

IT IS HEREBY ORDERED that defendant's Motion to Compel Inspection and Discovery is **DENIED.** [45]

IT IS FURTHER ORDERED that defendant's Motion to Compel Disclosure of Identity of All Informants and to Produce Them is **DENIED.** [50]

IT IS FURTHER ORDERED that defendant's Motion for Disclosure of Informants's Identity With Respect to Incident of November 7, 1995 is **DENIED.** [52-2]

IT IS FURTHER ORDERED that defendant's Motion to Compel Government's Production of Investigative Reports for All Law Enforcement Officers Who Will Testify at the January 30, 1998 is **DENIED.** [53]

IT IS HEREBY RECOMMENDED that defendant's Motion to Sever Offenses be **DENIED.** [43]

IT IS FURTHER RECOMMENDED that defendant's Motion to Suppress Evidence be **DENIED.** [48]

IT IS FURTHER RECOMMENDED that defendant's Motion to Dismiss the Superseding Indictment be **DENIED.** [49]

IT IS FURTHER RECOMMENDED that defendant's Motion for Further Suppression of Evidence be **DENIED.** [52-1]

The parties are advised that they have eleven (11) days in which to file written objections to this report and recommendation

pursuant to 28 U.S.C. §636(b)(1), unless an extension of time for good cause is obtained, and that failure to file timely objections may result in a waiver of the right to appeal questions of fact. See Thompson v. Nix, 897 F.2d 356 (8th Cir. 1990).

MARY ANN L. MEDLER
UNITED STATES MAGISTRATE JUDGE

Dated this 30th day of March, 1998.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	Cause No. 4-97CR-301-SNL
WILLIE E. BOYD	)	

DEFENDANT BOYD'S OBJECTIONS TO MAGISTRATE'S REPORT AND RECOMMENDATIONS WITH FINDINGS THEREIN

Comes now Defendant, Willie E. Boyd, by counsel, and files written objections to the Magistrate Judge's Order and Report and Recommendations with Findings Therein, those being adverse to the defendant in their entirety in law and in fact pursuant to 28 U.S.C.S. 636(b)(1) and in support of this objection states:

DISCOVERY MATTERS

1. **Defendant's Motion to Compel Inspection and Discovery**

The Magistrate Judge incorrectly denied the defendant's motion insofar as said Judge concluded that the Government's discovery response is full, adequate, and consistent with the discovery requirements of Rule 16 of the Federal Rules of Criminal Procedure and that the prerequisite of Federal Rule of Criminal Procedure 6(e)(3)(C)(II) had not been met by the defendant.

The particular need shown for the requested grand jury minutes is so that the defendant can show inconsistency between the trial testimony and grand jury testimony of government witnesses, and grand jury minutes should be made available to a defendant for that

particular purpose. United States v. Alper, 2nd Cir., 156 F.2d 122, Burton v. United States, 5th Cir., 175 F.2d 960, Herzog v. United States, 9th Cir., 226 F.2d 561, McNaab v. United States, 318 U.S. 332, 63 S.Ct. 608, 87 L.Ed. 819.

Grand jury Secrecy is not an end in itself. Grand jury secrecy is maintained to serve particular ends. But, when secrecy will not serve those ends or when those ends or advantages are outweighed by a countervailing interest in disclosure, secrecy may and should be lifted.

The Government, in its miscellaneous memorandums, made no showing whatsoever as to how the denial of inspection of the testimony of Bryant Troupe, or other grand jury witness testimony would serve any of the interests or purposes that usually justify secrecy.

In an analogous situation the United States Supreme Court has pointed out the folly of requiring the defense to show inconsistency between the witness's trial testimony and his previous statements on the same subject before it can obtain access to those very statements. Jencks v. United States, 353 U.S. 657, 77 S.Ct.1007, 1 L.Ed.2d 1103, Pittsburgh Plate Glass Company v. United States, 79 S.Ct. 1237 at 1245.

Grand jury testimony is often lengthy and involved and it would be extremely difficult for even the most able and experienced judge, under the pressures of a trial, to pick out all of the grand jury testimony that would be useful in impeachment of witnesses.

Pittsburg Plate Glass Company v. United States, 79 S.Ct. 1237 at 1245.

For the foregoing reasons, the defendant objects to the Magistrate Judge's recommendation that the Defendant's Motion to Compel Inspection and Discovery be denied. The Magistrate Judge's reference to the absence of the required certification as a basis for mootness is ludicrous. The absence of a certification of that nature is cured by the defendant's explanation as to a discovery deprivation presented on the record and in discovery related motions and the indicated technicality cannot and should not be the basis for depriving the defendant of discovery and his due process right to a fair trial.

2. Defendant's Motion to Compel Identity of All Informants and to Produce Them

The defendant requested the identity of the informant who told United States Deputy Marshall Adler that the defendant was residing at 2091 Victory Way Lane.

The Magistrate Judge incorrectly recommended that the government may withhold the requested disclosure.

The transcript of the October 6, 1997, evidentiary hearing, page 33, line 23, recites that Adler's information was received from an undisclosed informant(s).

The informant(s) must be reliable and the information that it relays must be detailed and specific as opposed to general allegations. Aquilar v. Texas, 378 U.S. 108 (1964); Spinelli v. United States, 393 U.S. 410 (1969).

Adler's testimony, and all other documentation made available through discovery, without more, fails in both respects inasmuch as it does not indicate that the informant(s) had given information in the past which lead to the arrest and conviction of other individuals.

It is also necessary for the government to make the requested disclosure when the contents of the informant's information is helpful and relevant to the defense. Roviaro v. United States, 353 U.S. 53, 1 L.Ed.2d 639, 775 S.Ct. 623 (1957).

3. Motion for Further Suppression of Evidence and Disclosure of the Informant's Identity with regard to Incident of November 6, 1995

In the case of this incident, the informant's tip was similarly lacking in terms of detail and specificity, and the reliability of said informant was not adequately shown during the evidentiary hearings of January 30, 1998 and February 13, 1998. In the interests of brevity, the motion and memorandum of the defendant together with the transcripts of the respective hearings are incorporated herein by reference. The defendant contends that the Magistrate Judge's findings concerning the same are incorrect and hereby objects to said findings.

DEFENDANT'S OTHER MATTERS

The defendant's other motions and memorandums, and each of them are incorporated herein as if fully set forth.

The Magistrate Judge's recommendations that said motions be overruled is incorrect and the defendant hereby objects to said proposed recommendations and findings in their entirety, in law and

fact pursuant to 28 U.S.C.S. 636(b)(1) and hereby requests a de novo review with respect to each of said findings and recommendations, and for all other relief that this court may deem just and proper.

Carl L. Epstein, #8083-49
Attorney for Defendant

Frank R. Fabbri, III, #23023
Local Counsel for Defendant

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing has been served upon Gary M. Gaertner, Jr., Assistant United States Attorney, U.S. Court and Custom House, 1114 Market Street, Room 401, St. Louis, Missouri 63101 by depositing same in the United States Mail, First Class, postage prepaid, this 7th day of April, 1998.

Carl L. Epstein, #8083-49
Attorney for Defendant

Carl L. Epstein
Attorney at Law
First Indiana Plaza
135 N. Pennsylvania Street
Suite 1150
Indianapolis, Indiana 46204

CARL L. EPSTEIN
ATTORNEY AT LAW
FIRST INDIANA PLAZA, SUITE 1150
135 NORTH PENNSYLVANIA STREET
INDIANAPOLIS, INDIANA 46204
TELEPHONE (317) 684-5660
FAX (317) 231-1106

Also Admitted
in District of Columbia
and Pennsylvania

April 9, 1998

Mr. Gary Gaertner, Jr.
Assistant United States Attorney
1114 Market Street
Fourth Floor
St. Louis, Missouri 63101

RE: United States of America vs. Willie E. Boyd
United States District Court
Eastern District of Missouri, Eastern Division
Cause No. 4:97CR301 SNL/MLM

Dear Mr. Gaertner:

Enclosed for your review are all materials that the defense maintains are within the purview of Rule 16 of the Federal Rules of Criminal Procedure.

As indicated in our recent telephone conversation, I will not receive records of Mr. Boyd's (Jackson's) stay at the Economy Inn until our subpoena is responded to perhaps on April 10, 1998 at 9:00 A.M.

If the documents are material, helpful, and relevant to the defense, and if they are to be introduced by the defense, I will allow you to inspect them.

Sincerely,

Carl L. Epstein

CLE/at
Enclosures

Appendix-O

COPY FOR YOUR INFORMATION

September 9, 1997

INTERVIEW

First Interview of Al Greer

Willie Boyd Case (IAG)

Case No. 4:97 CR 301 SNL

This interview was conducted in person at Boyd's A-1 Auto Repair on the corner of East Prairie and West Florissant on 9/8/97. The interview began at 3:45 P.M., ended at 4:10 P.M., and was conducted by Tom Hinton, Investigator. Willie Boyd's brother, Jared, was also present during the interview but did not take part.

I introduced myself to Mr. Greer, with whom I had talked on the phone. I told him I worked for Willie's lawyer in federal court and he stated he understood my role. Mr. Greer told me he did not know anything about Willie's arrest on 2/1/97 for this case. However, his house at 1435 East DeSoto was searched in early June of '97, and Mr. Greer said that the police made several references to Willie Boyd during this search. He therefore gave me the details below regarding that incident.

Mr. Greer said that he was at work on that day early this summer when one of his neighbors drove up to the auto repair shop and told him that the police were in his house. He drove to the house at 1435 East DeSoto, which is owned by Willie Boyd's mother, Mary DeArmon. Mr. Greer found six or seven police officers on his porch and a couple inside the house searching it. They kept him outside of the house while they searched. Mr. Greer thought that the group was from the St. Louis Police Department's Mobile Reserve Unit. He said they were in uniforms and there were three marked police cars out front.

The police officers first said that they were there because they had gotten a complaint that a bunch of men were selling weed on the block and had gone up into his house. However, during the search when he asked them about a search warrant he was

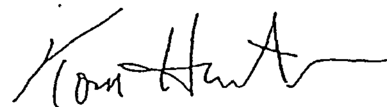
told that they did not need one because it was a federal investigation and this is when they made reference to Willie Boyd. It did appear that they knew that Mr. Boyd had already been arrested. However, indications were that they were looking for evidence against Mr. Boyd in connection with his previous arrest. At another point during the search, another officer told Mr. Greer that they had a search warrant and left it on the dining room table. He, however, never found any search warrant after the search.

At some point during the search, Mr. Greer was taken inside. He had patched certain walls and a closet in other rooms and the police questioned him about this, indicating he might have hid something behind the walls. Mr. Greer simply told them that he had nothing to hide but that he knew they were "gonna do what you gotta do". The police then punched holes in some of his walls and looked in there, finding nothing. During the search the police officers told Greer "If we find anything you'll get as much time as Willie". The officers, however, did find a pistol in the house and asked Greer if it was Boyd's. Mr. Greer said that he did not think it belonged to Boyd, noting that Mr. Boyd only stayed there for a week or so about a year previous to the search. Mr. Greer has lived in the house for three or four years. He said that he never saw Boyd with a gun and that he told the police he did not think Boyd had any connection to the gun. No one was charged with possession or use of the weapon found in the house and indeed no charges were filed as a result of this search.

About a week or so after the search, Mr. Greer came up to his house and found some U.S. Marshals on his front porch trying keys in his front door lock. He asked them what they were doing and it appeared that they had gotten some keys from Willie Boyd and were trying them in his door. None of the keys worked, although the Marshals tried every key on the ring while he waited there. They then gave him a subpoena to appear before

a grand jury a few days after that. When he went to the grand jury he first talked to some of the agents, who might have been U.S. Marshals, and then testified before the grand jury. All the questions were about the gun found at the house on DeSoto and whether or not it belonged to Willie Boyd. Greer answered that he did not think the gun had anything to do with Willie Boyd, as Boyd would have no way of knowing it had been there. After being questioned by the grand jury he was told by the prosecutor that he would not be needed further. He has not been contacted since then.

Regarding the damage done to the house, Mr. Greer said that he did accompany Sharon Troupe, Willie's girlfriend, and Mary DeArmon, Willie's mother, to the Internal Affairs Department, where they made a complaint about the damage. In addition, he alleged at that time that some items were missing. He told me he had an extensive baseball collection which was worth some money which he could not locate. However, he later did find the cards and called Internal Affairs. Someone from that department came to his house and he told them to cancel his complaint regarding the search. He does not know if Mrs. DeArmon is following up on the damage, but said that it is really not his concern since he does not own the house. He has fixed some of the locks that were broken, but some of the damage to the walls, etc., is still there. Mr. Greer ended by saying that he does not know of any other family members or friends who were contacted by the U.S. Marshals or police regarding Willie Boyd in this case or his parole violation.



Tom Hinton, Investigator

TEH:rsh

September 9, 1997

INTERVIEW

Spoke with April 5, 1998

First Interview of Mary DeArmon

Willie Boyd Case (IAG)

Case No. 4:97 CR 301 SNL

This interview was conducted in person at Ms. DeArmon's home, 4490 Pine, Apartment 504, on 9/8/97. The interview began at 2:10 P.M., ended at 2:30 P.M., and was conducted by Tom Hinton, Investigator. Also present during the interview was Mr. Boyd's daughter, Jackie Boyd, Ms. DeArmon's granddaughter.

I introduced myself to Ms. DeArmon, with whom I had previously arranged the interview. She in turn introduced me to Jackie Boyd, who is our client's granddaughter. They both stated that they understood that I worked for Boyd's lawyer, and gave me the following information regarding his case.

Ms. DeArmon explained that she was not present and did not know anything about Willie's arrest on 2/1/97 at his girlfriend's house at 2091 Victory Way. I told her that I did understand that she had some information on a subsequent search conducted at a house she owns on DeSoto. Ms. DeArmon said that she indeed owns the house at 1435 East DeSoto in St. Louis and that their cousin, Al "Bubba" Greer, lives there. Ms. DeArmon was not present when this house was searched but did understand that it was searched sometime after Willie was arrested.

DeArmon said that all the information she has regarding this search came from Mr. Greer and others. It was her understanding that he was work at Boyd's A-1 Auto Repair nearby the house when a neighbor or someone there notified him that his house was being searched. Mr. Greer went there and told her that there were uniformed police officers and plain clothes detectives searching the house. They indicated that they were looking for

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Willie Boyd, even though Mr. Boyd had already been arrested. She thinks this took place in early summer of '97. She does not think the police found anything during this search.

Ms. DeArmon said that later she, Sharon Troupe, Willie's girlfriend, and Mr. Greer went to the Internal Affairs Department of the St. Louis Police Department to talk to the m about damage done during the search. Mary said that Sharon did all the talking and had pictures of the damage. They talked to a female officer there but Mary does not believe that any of them wrote out any statements. She said that Sharon Troupe has all the information on this and that she has not heard anything about it since they made the complaint.

During the time Mr. Boyd was not reporting to his parole officer and there was a warrant out for him, Ms. DeArmon said that the U.S. Marshals never came by her house looking for him. She did believe that she got a call about one month before his arrest from a Marshal who asked if she had seen Willie. DeArmon told this man that she had seen him a month previously when he passed by her in his car. She said she did not know where he was at the time. The Marshal asked her if she knew Sharon Troupe and DeArmon replied yes. The Marshal referred to Ms. Troupe as Willie's wife, but DeArmon said that this was news to her. When she told the U.S.M. that he knew more about Willie's situation than she did, she said the Marshal appeared to get upset and hung up. She was not threatened with arrest nor was she ever accused of hiding information regarding Mr. Boyd. She doesn't remember the Marshals name and had no other contact with them regarding Willie and this case or his parole violation.

Tom Hinton, Investigator

TEH:rsh

MEMORANDUM OF INTERVIEW

INTERVIEWED: ALONZO WRICKERSON
JACQUELINE BOYD

LOCATION: 1403 DeSoto, St. Louis, Missouri
(314) 652-0229

DATE: November 5, 1997

ALONZO WRICKERSON and JACQUELINE BOYD live together at 1403 DeSoto and have three children. WRICKERSON and BOYD gave the following account of events that occurred in the early part of January, 1997.

WRICKERSON related that in the early part of January, in the early morning there was knock at the front door of 1403 DeSoto. WRICKERSON responded to the knock where upon he was confronted by a group of males who identified themselves as United States Marshals.

WRICKERSON was asked if he knew WILLIE BOYD and he responded yes. One of the marshals advised that was the reason they were at the house. The marshals then entered the house and began to search.

It should be noted the WRICKERSON stated that marshals just came into the house without his permission. At the time the marshals first entered the house JACQUELINE was still in bed.

WRICKERSON inquired if the marshals had a search warrant to which he never got an affirmative answer. WRICKERSON was placed in the kitchen area while the search was being conducted.

JACQUELINE related that she was asleep when the marshals came into the house. One of the marshals made reference to her being WILLIE BOYD'S common law wife. JACQUELINE advised the marshals that she was WILLIE BOYD'S daughter.

JACQUELINE stated that she estimated that the marshals were in her house approximately 35-40 minutes searching and questioning her boyfriend (WRICKERSON) and her three children relative to WILLIE BOYD and his where abouts.

BOYD and WRICKERSON stated that the marshals questioned their children about WILLIE BOYD. The children ages are 6, 8 and 11.

JACQUELINE BOYD stated that she is the titled owner of the house at 1403 Desoto. She has owned the house for approximately 7 years. **Mrs. Boyd** advised that the money used to purchase the house came from her grandfather's insurance policy.

Ms. **Boyd** also stated that **WILLIE BOYD**, her father did receive some mail at the house and thought that the marshals may have taken some of the mail when they were in the house.

ALONZO WRICKERSON related that in the first part of February, 1997 he was sitting in his wheel chair outside 1403 DeSoto when two U.S. Marshals approached him. One of the marshals addressed **WRICKERSON** by stating "you remember me, I was here before". This same marshal had a key ring of keys and began to try the keys in the door locks. The marshal asked **WRICKERSON** if any of the keys looked familiar.

Also at this time,the other marshal was taken photographs.

WRICKERSON concluded by stating that he thought that some of the keys fit the locks.

MEMORANDUM OF INTERVIEW

INTERVIEWED: DEVON WADE and SHERITTA EVANS

INTERVIEWER: Robert Thomure

Prior transcript

LOCATION: 4212 Shaw
St. Louis, Missouri

DATE: November 5, 1997

Devon Wade and Sheritta Evans reside together at 4212 Shaw, the second floor.

Devon Wade related that in the early part of February, 1997, the day they were moving into 4212 Shaw some law enforcement officers came to the residence and entered.

Wade related that he was asked about an individual named "WILLIE BOYD". Wade advised that he did not know a WILLIE BOYD" and that he was in the process of just moving into the residence, which was evidenced by all the unpacked boxes.

Wade advised that the law enforcement officers walk around the residence and then left.

Devon Wade continued by stating that during October, 1997 some law enforcement officers wearing wind breaker type jackets, possibly with the letters ATF or DEA came to his house and showed him a photograph of a Black male and asked him if he knew the individual in the photograph. Wade did not know the individual in the photograph nor had he ever seen him before. Wade stated that he could not recall the individual's name that the law enforcement officers were asking him about but that there was a name being used in conjunction with the photograph.

SHERITTA EVANS related the same account of the law enforcement coming to their house the day they were moving and asking about WILLIE BOYD.

MS. EVANS gave the same account of the law enforcement officers coming to the house in October, 1997. EVANS thought that the letters on the jackets were ATF. EVANS further related that the photograph shown to her and DEVON as of an individual that she had never seen before. EVANS thought that the first name of DARYL was being used in conjunction with the photograph and that the individual in the photograph appeared to her to be approximately

26-28 years old. **EVANS** also stated that the law enforcement officers were traveling in a Ford, Crown Victory.

MS. EVANS stated that a short time after the first group of law enforcement officers left and **black female, with shoulder length hair, wearing a blue wind breaker with letters, possibly ATF.**

> * It should be noted that **EVANS** was more sure on the lettering on the jacket of the female.

The female agent asked the same questions and left.

SYNOPSIS OF TESTIMONY

MUHAMMAD MATEEN

Mr. Mateen will testify as to the events that transpired at 2091 Victory Way Lane, St. Louis, Missouri on February 1, 1997.

Reference is made to the transcripts of Mr. Mateen's grand jury testimony, the same having been provided by the government to defense counsel for Willie E. Boyd.

SYNOPSIS OF TESTIMONY

MR. ERIC COLE

Eric Cole is the son of Mr. William Cole (deceased) who had been the owner of Cole's Motel on November 6, 1995.

Eric Cole is presently the proprietor of Putts Package Liquor located at 4603 Natural Bridge, St. Louis, Missouri.

At the time of the above-mentioned incident wherein Willie Boyd a/k/a "Billy Jackson" and Mr. Hassell were arrested, Eric Cole served in a managerial capacity and otherwise helped his father at the motel.

He arrived at the motel while Mr. Boyd (ie Jackson) and Mr. Hassell were being arrested.

He will testify as to what he observed on that occasion and that firearms then recovered at the office wherein the arrest occurred were his father's weapons.

SYNOPSIS OF TESTIMONY

MR. LARRY HASSELL AND JAN (SIGNIFICANT OTHER)

Mr. Hassell and Jan, his significant other, will testify as to their version of the events that transpired at Cole's Motel on November 6, 1995 at the time Mr. Boyd (Jackson) and Mr. Hassell were arrested by police officers for possession of cocaine and firearms.

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MEMORANDUM OF INTERVIEW

INTERVIEWED: APRIL MORROW   address ?

INTERVIEWER: Robert Thomure

DATE: November 5, 1997

The following is a summary of a statement provided by APRIL MORROW on November 5, 1997 relative what she recalled the evening of February 1, 1997.

MORROW was with JENNIFER ORR the evening that WILLIE BOYD was arrested in February, 1997. She recalled they had just parked their vehicle and she observed two men, one of the men had keys. She observed one of the men had a flash light. She observed the flash light being shinned into a vehicle. One of the men entered the vehicle and short time later he exited the vehicle and she could observe that he was carrying some papers.

The men went back into SHARON TROUPES apartment and then a short time later a group of men brought WILLIE BOYD out of the apartment.

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SYNOPSIS OF TESTIMONY

SHARON TROUPE

Ms. Troupe will testify as to the events that transpired at 2091 Victory Way Lane, St. Louis, Missouri on February 1, 1997.

Reference is made to the transcripts of Ms. Troupe's grand jury testimony, the same having been provided by the government to defense counsel for Willie E. Boyd.

Spoke with
Jennifer Orr
On April 8, 1998

MEMORANDUM OF INTERVIEW

INTERVIEWED: JENNIFER ORR
8618 Mangaire
522 1609(home)

INTERVIEWER: Robert Thomure

DATE: November 5, 1997

The following is a summarized statement provided by JENNIFER ORR to Robert Thomure on November 5, 1997 concerning her observations on the evening of February 1, 1997, in the area of SHARON TROUPES apartment at Victory Way.

MS. ORR estimated at approximately 9:00 pm to 9:30 pm she and a friend (APRIL MORROW) had driven to SHARON TROUPES apartment at Victory Way in St. Louis County. ORR stated that when she parked her vehicle she observed through the front window a white male inside the apartment and a white male on the front porch area of the apartment. She then observed another white male with a flash light to exit TROUPES apartment and go to a large vehicle. She could only remember the vehicle as being a dark colored vehicle and large, possibly a Lincoln.

ORR stated that the unknown white male shinned the flash light into the vehicle and then entered the vehicle. A short time later (within minutes) the white male subject exited the vehicle carrying what she thought to be some paper work. The male subject then went back into the apartment.

A short time later when she was leaving she observed the the people inside the apartment bringing WILLIE BOYD out of the apartment and it appeared that BOYD was handcuffed.

On November 17, 1997 JENNIFER ORR was contacted by phone. ORR was asked to clarify some points relative to her visit to SHARON TROUPES apartment on February 1, 1997. ORR advised that she had went to the apartment in order to pick up a camera that she was going to barrow from SHARON.

ORR stated that she could not ever recall being inside the apartment and on the other prior occasions when she went to the apartment it was to pick up SHARON when they were going out.

MS. ORR was question concerning seeing the white male with the flash light going to the vehicle. ORR stated that when the male approached the vehicle she did not see him carrying any papers and when he got out of the vehicle on the way back to the apartment she observed him carrying some papers with him.

SYNOPSIS OF TESTIMONY

MANAGER - ECONOMY INN

The Custodian of Records for the Economy Inn will testify as to the duration of the respective stays or occupancies of "Billy Jackson" a/k/a "Willie E. Boyd" during early January and late January, 1997.

A staff member will be designated to deliver related records on April 10, 1998 and to authenticate those records at the scheduled trial beginning on April 13, 1998.

Spoke with
April 5, 1998

MEMORANDUM OF INTERVIEW

INTERVIEWED: GERALD BOYD

LOCATION: A-1 Auto REPAIR
East Prairie and West Florisant
531-8771

INTERVIEWER: Robert Thomure

DATE: November 5, 1997

GERALD BOYD is the brother of **WILLIE BOYD.** Gerald is the manager of **BOYD'S A-1 AUTO REPAIR,** which is owned by his brother **KENNETH BOYD.** KENNETH BOYD is retired from the United States Armed forces.

Gerald related that a day or two after his brother, **WILLIE** was arrested by the United States Marshals, in February, 1997, the marshals searched the auto repair shop. Gerald stated when he arrived for work the marshal were on the lot. The marshals identified themselves and advised that they had some keys they wanted to try to see if they fit. Gerald stated that one of the marshals with the keys unlocked the protective iron gate of the business and then the door to the business. Gerald then turned off the alarm to the business.

Gerald inquired about a search warrant and he was told to be quiet. Gerald stated that at the time he had a bench warrant on him thus he thought it would be a good idea to keep his mouth shut.

The marshals then entered the office of the repair shop by unlocking the door with a key they had in their possession. Gerald stated that he could hear the drawers being opened and shut inside the office, apparently searching the office. Gerald stated that he thought that the marshals had taken some paper work from the office.

Prior to leaving Gerald stated that one of the marshals provided him with his business card, "LUKE ADLER".

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	Cause No: S1-4:97CR301 SNL
	)	
Plaintiff,	)	
	)	St. Louis, Missouri
vs.	)	
	)	
WILLIE E. BOYD	)	April 13, 1998
	)	
Defendant.	)	

VOLUME 1
TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE STEPHEN LIMBAUGH

APPEARANCES:

For the Government: Mr. Gary Gaertner
Assistant U.S. Attorney
1114 Market Street
St Louis, MO 63101

For the Defendant Mr. Carl Epstein
Attorney at Law
135 North Pennsylvania Street
Suite 1150
Indianapolis, IN 46204

Lynne Shrum
Court Reporter -
Room 308 - 1114 Market
St. Louis, MO 63101

Appendix-P

1 considered and ruled on by the Court, I find that it
2 is appropriate to allow them to exercise their Fifth
3 Amendment privileges and that they sustained their
4 burden in this refusal.
5 All right. Having made this decision, then I
6 will excuse those two witnesses.
7 Now I'll hear further --
8 MR. EPSTEIN: Yes, Your Honor.
9 THE COURT: -- concerns that you wanted to
10 make.
11 MR. EPSTEIN: In light of the developments
12 concerning respective defense witnesses Larry
13 Hassell and Jan Davis who are very important
14 witnesses for the defense with respect to the
15 alleged incident of November 6, 1995 at Cole's
16 Motel, the defense would seek a continuance or an
17 extended adjournment of the trial proceeding to try
18 to reconstruct something with respect to that count.
19 Mr. Boyd indicates there may be at least one or
20 two other witnesses out there who have not been made
21 available to me previously. I would like the
22 opportunity on his behalf of the exercise of due
23 diligence to have some time to go out and try to
24 make inquiry with those witnesses.
25 MR. GAERTNER: Your Honor, I would object

1 to any continuance at this time. I believe Mr.
2 Epstein has talked to both Mr. Hassell and has been
3 in communication with Miss Davis. I've received
4 synopsis of interviews that were done and I don't
5 believe that there's any further witnesses that Mr.
6 Epstein will come forth with at this time with
7 regard to the incident in question and Mr. Epstein
8 from what -- from Jencks material indicates that
9 we -- there will be other witnesses concerning the
10 November 6th, 1995 event over at the Cole's Motel.
11 THE COURT: All right. I am going to deny
12 the request. This matter has been pending for some
13 time. There has been a rather extensive evidentiary
14 hearing before the United States magistrate. All of
15 the materials to which the defendant is entitled
16 have been provided to him.
17 We became aware last Monday, a week ago today,
18 that we would have an evidentiary hearing on the
19 motion involving the possibility of impropriety in
20 the grand jury proceedings and impropriety in the
21 exercise of the rights of the office of the United
22 States Attorney as suggested in the motions by Mr.
23 Boyd, and being aware of that possibility last
24 Monday and then in particular having it formed up
25 Friday, three days ago, that attorneys would be

U.S. Department of Justice

United States Attorney
Eastern District of Missouri

Organized Crime Drug Enforcement
Task Force - South Central Region

U.S. Court and Custom House
1114 Market Street, Room 421
St. Louis, Missouri 63101

314-539-6851

FAX/314-539-2312

February 21, 1997

Mr. Charles M. Shaw
Mr. John F. Garvey, /Jr.
Via FAX

Subject: United States v. Miller and Kerr
4:96CR365CDP

The following information regarding the background of Government witness Bryant Troupe is being provided as Jencks and/or Brady material. You have previously been sent a copy of his RAP sheet. It is my position that none of the entries provides material appropriate for impeachment.

No formal written agreement exists between Troupe and the Government. The Government does not intend to prosecute Troupe for past drug-related, non-violent criminal conduct revealed in his testimony as long as he has been and remains truthful.

Funds have been provided to, or expended on behalf of, Troupe in the following amounts for the listed reasons by the listed agencies:

> From approximately 1983 to 1988, Troupe worked as an informant for the Velda City Police Department, where he was employed as a reserve officer for a short time in 1983. ~~During that~~ time, he provided information on criminal activities in the community on approximately 20 or more occasions. He did not testify in any of these cases. In some instances, he received no consideration. In others, he received $20 to $50 per case.
>
> From approximately 1988 to 1995, Troupe worked as an informant for the North County MEG Unit/ Northwoods Police Department. During that time, he provided information about narcotics and firearms which led to over 40 search warrants as well as other cases and other

Appendix-Q

arrests. His information was found to be consistently reliable. He did not testify in any of the resulting prosecutions. He received cash payments of from $20 to $50 per case.

In 1994, Troupe gave information to the Drug Enforcement Administration on one occasion. This led to the seizure of cocaine and marijuana. He did not testify. He received a $200 cash payment.

Troupe began working with the Federal Bureau of Investigation in 1994. At this time, he was still working with the MEG Unit with the FBI providing some financial and manpower support. On one occasion, the FBI paid Troupe $200 for a case he made for the MEG Unit.

From March of 1996 to the present time, Troupe has received the following consideration for his cooperation in the Miller/Kerr case: $4,500 cash, $750 expenses prior to 1/27/97, $650 for credit debt, and $1,160 for rental of secure housing as of 1/27/97.

Troupe has informed me that at various times since approximately 1989, he has participated in drug trafficking as a middleman or broker for Byron Miller. He received money for these services from Miller or others involved in the sales. This activity was not part of his supervised law enforcement cooperation.

Troupe has advised me that he has used and sold marijuana in the past.

Troupe also advised me that he did not report the above-described income as earnings, nor did he pay taxes on it. He has not been absolved of such tax obligation and has been so advised by me.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MARY DeARMON, et. al., Plaintiffs,	)	
v.	)	Cause No: 4:99CV01422(ERW)
GARRET BURGESS, et. al., Defendants.	)	

ANSWERS AND OBJECTIONS TO
PLAINTIFFS FIRST SET OF INTERROGATORIES
TO DEFENDANT GARRETT BURGESS

Plaintiffs Mary DeArmon, et. al., hereby requests that the Defendant Garrett Burgess, answer the following interrogatories under oath, separately and fully within thirty (30) days of the time of service in accordance with Rules 26 and 33 of the Federal Rules of Civil Procedure.

In answering these interrogatories, please furnish all information that is available to you including, but not limited to, information in the possession of your principals, agents, attorney(s), and accountants, not merely information known to the personal knowledge of the person preparing the answers.

These requests are deemed to be continuing, and you have the duty to supplement your responses if you obtain further information between the time answers are served and the time of trial.

INTERROGATORIES

1. Were you ever a defendant in any suit which charged you,

individually or in your official capacity as a police officer in the St. Louis police department, with abuse of your lawful authority? ANSWER: Objection; irrelevant. Subject to said objection, I was sued for excessive force during the course and scope of my employment. **Lonnie Orr v. Garrett Burgess, et al.**, Federal Court approximately 10 years ago.

a. the name and address of each plaintiff;

b. the name and address of each defendant;

c. the nature and cause of action;

d. the date on which suit was instituted;

e. the court in which the suits were instituted;

f. the name and address of the attorneys for each party;

2. Were there in existence at the times of this incident, internal administrative procedures designed to prevent and correct instances of abuse of the authority of the police officers of the St. Louis police department. **ANSWER:** Internal Affairs Division, - Lt. Simpher.

a. the nature of such procedure;

b. the person who is responsible for implementing such procedures;

c. any charges ever made against you in internal administrative procedure(s), including the names and addresses of all complainants, the nature of the charges, the identity of the person administering the disciplinary proceedings, and the outcome.

3. State the title and substance of any documents created in preparation for or in response to this incident. **ANSWER:** Objection; request is vague and overbroad. Subject to said objection, none other than police report.

4. Identify all persons who, to your knowledge, or the knowledge of your agents or attorneys, witneessed or purported to have knowledge of facts relevant to this incident. For each, state: **ANSWER:** None other than police officers who assisted in the effectuation of search warrant.

a. the date, time, and place on which the person was involved;

b. the substance of any conversations or reports with such person regarding Willie Boyd or the incident;

c. the name, address and badge number or identification number of each person;

5. What is your monthly set wage after deductions or withholdings made for income tax, social security, medical insurance, pensions, and other like deductions or withholdings. **ANSWER:** Objection; irrelevant.

6. Have you received any discipline from the St. Louis police department, as a result of the incident involving the plaintiffs? If yes, state: **ANSWER:** Objection; request seeks information protected under Chapter 610 R.S.Mo.

a. the nature of the discipline;

b. the facts on which such discipline wasbased;

c. who ordered and who adminiatered the disciplinary action;

7. How long have you known Assistant United States Attorney Gary Gaertner? **ANSWER:** Objection; irrelevant.

a. did he interview you concerning evidence upon seized from 1435 East DeSoto, on June 3, 1997;

b. did you testify concerning this evidence upon subpoena from Assistant U.S. Attorney Gary Gaertner;

c. What dates were these interviews held;

8. What kind of property did you seize from 1435 East DeSoto?
ANSWER: .357 Colt firearm, 2 door knobs

a. did you seize any money from 1435 E. DeSoto;
ANSWER: No

b. did you seize locks and door knobs from 1435 E. DeSoto;
ANSWER: 2 door knobs and the corresponding locks.

c. did you seize jewelry from 1435 E. DeSoto, on June 3, 1997;
ANSWER: No

d. did you seize photograph's and personal documents from 1435 E. DeSoto;
ANSWER: Do not recall any

9. Did you take photograph's or video tape evidence at 1435 E. DeSoto, on June 3, 1997? **ANSWE:** None

a. Where are these photographs or video tapes stored;

b. who used the video camera to make the tape;

10. Did you give a proprty return list to the Circuit Attorney involved in the search of 1435 E. DeSoto, after the search; **ANSWER:** No

a. what date was this property return list given to the Circuit Attorney;

11. Did you turn a property list over to the federal prosecutor, AUSA. Gary Gaertner, of the property taken from 1435 E. DeSoto, on June 3, 1997? **ANSWER:** No

a. what date was this property return list given to AUSA Gary Gaertner;

b. and did he receive the property from 1435 East DeSoto, that was seized, on June 3, 1997;

12. Whats the name of the Circuit Attorney, involved in the alleged apllication for the search warrant? **ANSEWR:** Do not recall. See warrant application.

13. When did you coordinate your investigation with the ATF. agents, involving the seizure of a weapon from 1435 E. DeSoto? **ANSWER:** No

a. on what dates did you meet with the agents;

b. what date did you first make contact with the ATF. agents concerning the weapon alleged to have been seized from 1435 E. DeSoto;

c. what were the names of the ATF. agents;

14. Did you seize the door knobs and locks from 1435 E. DeSoto, on June 3, 1997? **ANSWER:** See #8.

a. why did you seize the door knobs and locks;

15. If in fact you talked with Willie Boyd's brother at 1435 E. DeSoto, on the day in question, what was Willie Boyd's brothers name? **ANSWER:** No, but I spoke with Albert Greer.

a. did you also talk with Albert Greer, on the day in question, June 3, 1997;

16. Whats the names of U.S. Marshals who gave you information on Willie Boyd, prior to you executing a warrant at 1435 E. DeSoto? **ANSWER:** None

a. when was this contact made with these Marshals, on what dates;

17. How many pictures were taken of the house and seized property? **ANSWER:** Unknown to this defendant.

18. Did you testify at any of the legal proceedings concerning Willie Boyd? **ANSWER:** No

19. Did you damage property at the address of 1435 East DeSoto on June 3, 1997? **ANSWER:** No

a. punch holes in the walls;

b. pull down ductwork from the furnance;

c. break-into bedrooms and the basement living area's;

d. damage the furniture in the house;

20. Where is the property that was seized from 1435 East De-Soto, being kept? **ANSWER:** To the best of my knowledge, at the Police Department Lab and Property room.

21. Do you now or have you ever suffered from any mental disease, defect or disorder? If yes, state the nature, treatment and medical personnel with knowledge of the disease, defect or disorder. **ANSWER:** None

22. What date did you interview the alleged informant, who provided these statements that you based your affidavit in support of your search warrant? **ANSWER:** Yes

a. who else was with you when you interviewed this alleged informant, when he made these statements you based your warrant on;
ANSWER: James Joyner. However, I spoke on the phone alone with my witness. P.O. Joyher did not speak with the witness.

b. was this informant paid for his information;
ANSWER: No

c. under what terms and conditions was he paid, state the conditions;
ANSWER: Not applicable

d. what agents did this informant work for and on what cases;
ANSWER: Unknown to this defendant.

23. Have this alleged informant ever committed perjury or has he ever been found to be false? **ANSWER:** Not to my knowledge.

a. does this informant has a criminal history;

b. has this alleged informant ever used, sold or been involved with any illegal drugs in the past 10-years;

24. Have this alleged informant ever been treated for any mental disease, defects or disorders? **ANSWER:** Unknown

25. Have you ever witnessed a follow police officer committ a crime? If yes, state: **ANSWER:** Objection; irrelevant. Subject to said objection, no.

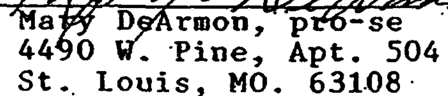
a. did you report him;

b. were you disciplined for reporting the officer;

c. is he still active on the force;

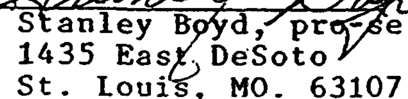
The Plaintiffs Mary DeArmon, et. al., expect an answer to all the guestions herein within (30) days, which will be December 17th, 1999.

Respectfully Submitted,



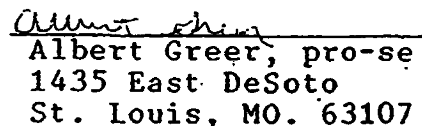
Mary DeArmon, pro-se
4490 W. Pine, Apt. 504
St. Louis, MO. 63108

By,



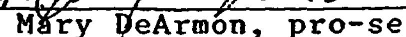
Stanley Boyd, pro-se
1435 East DeSoto
St. Louis, MO. 63107

By,



Albert Greer, pro-se
1435 East DeSoto
St. Louis, MO. 63107

Copy of the foregoing was mailed this 17th day of November, 1999 to Mr. John A. Bouhasin, # 80490, Assistant City Counsel, Attorney for the Defendants Garrett Burgess, Troy Eaton, Thomas Whyte, Joseph Crews, Joseph Spiess, Steve Berles, Clarence Hines, at City Hall, Room 314, St. Louis, MO. 63103



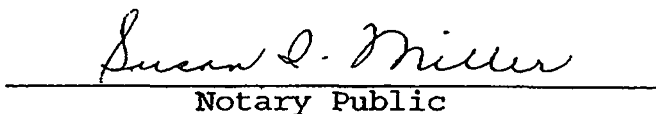
Mary DeArmon, pro-se

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

Garrett Burgess, being duly sworn upon his oath, states that the foregoing Answers to Plaintiff's Interrogatories Directed to Defendant Garrett Burgess, are true according to his best information and belief.

Garrett Burgess

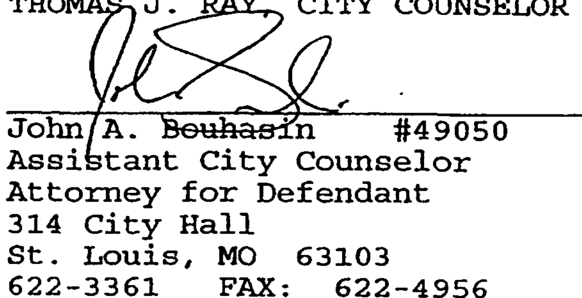
Subscribed and sworn to before me this 4th day of January, 2000.



Notary Public

SUSAN I MILLER
NOTARY PUBLIC STATE OF MISS
ST. LOUIS CITY
MY COMMISSION EXP. DEC. 15,

THOMAS J. RAY, CITY COUNSELOR



John A. Bouhasin #49050
Assistant City Counselor
Attorney for Defendant
314 City Hall
St. Louis, MO 63103
622-3361 FAX: 622-4956

Certificate of Service

Copy of the foregoing Answers and Objections to Plaintiffs' First Set of Interrogatories to Defendant Garrett Burgess was mailed this 5th day of January, 2000 to: Pro-Se Plaintiffs Mary DeArmon, Stanley Boyd and Albert Greer, 4490 W. Pine, Apt. 504, St. Louis, MO 63108.