

BEFORE THE UNITED STATES GRAND JURY
EASTERN DISTRICT OF MISSOURI
EASTERN DISTRICT

IN RE: BOYD

Transcript of Testimony

of

SHARON TROUPE Page 2
MUHAMMAD MATEEN Page 26

May 14, 1997

Appearance:

Mr. Gary Gaertner
Assistant U.S. Attorney
U.S. Court & Customhouse
1114 Market Street, Room 401
St. Louis, Missouri 63101

COURT REPORTING ASSOCIATES

1 SHARON TROUPE

2 less what was going on until he told me. I
3 said, "Well, you know, you know you have to
4 turn yourself in."

5 Q How did you discover he was wanted by
6 the authorities?

7 A I saw it on the World paper, the
8 evening World newspaper.

9 Q Let me show you what has been labeled
10 as Grand Jury Exhibit No. 5. Do you recognize
11 this bag?

12 A Yes.

13 Q Whose bag is that?

14 A My brother's bag.

15 Q What's your brother's name?

16 A Brian.

17 Q Brian what?

18 A Troupe, same last name.

19 Q Where did you see that bag before?

20 A I only seen it when my brother used
21 to bring it in the house.

22 Q What did your brother maintain in
23 this bag?

24 A I guess personal belongings or
25 whatever. And then I knew he had a gun in

1 SHARON TROUPE

2 there.

3 Q Your brother had a gun. What type of
4 gun was that?

5 A I couldn't tell you. I mean, it was
6 a black gun. That's all I could tell you.

7 Q Did Mr. Boyd have keys to your
8 apartment?

9 A No.

10 Q He's never had a key to your
11 apartment?

12 A He used to have my key sometimes,
13 until we got on bad terms again. You know,
14 like if he would meet me at the house, like
15 Friday when he got home from work. And then
16 we got on bad terms and stuff, so I took the
17 key back. So the only time he could come in
18 is if I let him in or if his son let him in.

19 Q How old is Brian Troupe?

20 A I think he's thirty-four. I know his
21 birthday is September 5, 19 -- he's got to be
22 thirty-three, thirty-four.

23 Q Where does he live?

24 A I don't know where he's living now.
25 I've kind of like lost --

1 MUHAMMAD MATEEN

2 A I don't know.

3 Q Was it before or after your father
4 was arrested?

5 A It was before.

6 Q So at the time your father was
7 arrested, had you moved back into the house?

8 A Yes.

9 Q Have you ever seen this bag before?

10 A Yes. My uncle used to bring it over.

11 Q Who?

12 A My Uncle Brian.

13 Q How often did your Uncle Brian used
14 to come to your house?

15 A He would come over every once in a
16 while. He had a key.

17 Q So every once in a while he would
18 come over. And did you ever look inside that
19 bag?

20 A No, I did not.

21 Q And your Uncle Brian, he didn't have
22 any clothes over there?

23 A No.

24 Q And he never stayed there, correct?

25 A No.

1 MUHAMMAD MATEEN

2 Q So he would just leave this bag
3 there?

4 A He would like come every once in a
5 while and bring the bag. Sometimes he would
6 take it. Sometimes he wouldn't.

7 Q Did you ever see a gun in this bag?

8 A No. I saw him with a gun on the bed,
9 but I never asked him what it was for.

10 X Q Is this (INDICATING) what the gun
11 looked like?

12 * A I think it had a smaller clip. I'm
13 not sure.

14 Q Did it have a scope like that in the
15 front?

16 A Yes, I think so.

17 Q And this is the gun you saw your
18 uncle with?

19 A Uh-huh.

20 Q Where does your uncle live?

21 A I have no idea.

22 Q So he would come over and play with
23 the gun on the bed, right?

24 A I didn't say he played with it.

25 Q What would he do with it?

1 SHARON TROUPE

2 Brian's been by today, or something like that.

3 Q Did your brother, Brian, have keys to
4 your apartment?

5 A Sometimes he did, yes.

6 Q Just like Willie Boyd, correct?

7 A Correct.

8 Q Okay. We've got some keys here
9 (indicating). Also Willie had other keys. He
10 had keys to your apartment; isn't that
11 correct?

12 A No.

13 Q In February?

14 A No, because I got my keys back.

15 Q In February, when the marshals went
16 in to arrest Mr. Boyd there, that you knew he
17 was wanted at that time, he was arrested on
18 February 5th of '97, correct?

19 A No. It was February 1st.

20 Q That's on a Saturday?

21 A Right.

22 Q That would have been -- February 1st,
23 you're right. I'm sorry. About 9:00 p.m.
24 Who was at your house at that time?

25 A Willie was, and his son, Muhammad.

MUHAMMAD MATEEN

1

2 A I don't know.

3 Q Was it before or after your father
4 was arrested?

5 A It was before.

6 Q So at the time your father was
7 arrested, had you moved back into the house?

8 A Yes.

9 Q Have you ever seen this bag before?

10 A Yes. My uncle used to bring it over.

11 Q Who?

12 A My Uncle Brian.

13 Q How often did your Uncle Brian used
14 to come to your house?15 A He would come over every once in a
16 while. He had a key.17 Q So every once in a while he would
18 come over. And did you ever look inside that
19 bag?

20 A No, I did not.

21 Q And your Uncle Brian, he didn't have
22 any clothes over there?

23 A No.

24 Q And he never stayed there, correct?

25 A No.

BEFORE THE UNITED STATES GRAND JURY
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE: WILLIE BOYD

Transcript of Testimony

of

SHARON TROUPE Page 2
. Page 17

June 11, 1997

Appearance:

Mr. Gary Gaertner
Assistant U.S. Attorney
U.S. Court & Customhouse
1114 Market Street, Room 401
St. Louis, Missouri 63101

COURT REPORTING ASSOCIATES

SHARON TROUPE

gun and my bag, or whatever the contents was in the bag, and they was going to arrest me. So I'm like, I said I had nothing to hide.

Q But you didn't tell them at that time that it was Bryan Troupe's gun?

A No. Because see, for one, I didn't know what was inside it. Every time they told me to come to them, and then they said just go back. And I said, "Well, what's in there?" And they said, "Don't worry about it". And they kept pushing me back and they tell me go downstairs or whatever.

Q So you didn't know what was in the bag?

A No. But I knew my brother had a black bag in the house with a gun in it.

Q How did you know there was a gun in it?

A Pardon me? Because I saw him one time when he did come over to the house when I was there. And I kind of like briefly looked at the gun, but I didn't see exactly what kind.

Q Where did you see the gun?

A He had it like sticking out the bag. I guess he was doing something to it or whatever.

Q So the gun was sticking out of the bag?

1 SHARON TROUPE

2 A When he had it. Like say you're in a bag,
3 looking in a bag or whatever. I guess he like
4 raise up something, you know. But I couldn't
5 tell, you know, what kind of gun it was or
6 whatever. But it wasn't my business. I wasn't
7 worried about it.

8 Q What was he doing with the gun?

9 * A He said he was doing some undercover work
10 working with the Feds or whatever. So I didn't
11 question him.

12 Q But you never saw what else was in that
13 bag?

14 A No, I didn't. And the U.S. Marshal didn't
15 show me what else was in that bag either, because
16 they kept telling me to get back or go downstairs
17 or upstairs.

18 Q So you don't know what was in the bag or
19 what was not in the bag?

20 A No, I didn't. Only thing I knew was it
21 was a gun. I could see the top of a gun or
22 whatever. But I couldn't tell you no other
23 contents that was in that bag. But I know what
24 the marshals put in the bag though.

25 Q What did the marshals put in the bag?

1 SHARON TROUPE

2 A Since February.

3 Q -- since February?

4 A Right. And then he called me like two or
5 three days, I guess, because they had came and
6 arrested him. No, they told him to turn hisself
7 in. They went to my mom's house where he was
8 staying off and on, or wherever he's staying at
9 now, and so he had turned hisself in. They told
10 me they needed to talk to him. The marshals came
11 over to my mom's house, and he went and I guess
12 talked to them about whatever.

13 Q When did they come over to your mom's
14 house?

15 A I guess it had to have been about two or
16 three days after I left here. It was in the same
17 week.

18 Q So you told Bryan Troupe that he wasn't
19 allowed in your house again after this May --
20 about three days after your testimony in May,
21 correct?

22 A No, I did not say that.

23 Q You didn't --

24 A I just talked to him. He asked me, you
25 know, what was going on, like I just said. I

SHARON TROUPE

1
2 said, "You know what's going on. They came and
3 got that black bag." You know, because he was
4 saying he was doing some undercover work, or
5 whatever, which I didn't get into details. I was
6 like whatever, you know. And he say that's the
7 reason why he had the bag there. He working with
8 the Feds or whatever.

9 Q So you -- so he hadn't been in the house
10 after February?

11 A No, he has not.

12 Q So you've had -- you never -- did you ever
13 contact the marshal's service and tell them, prior
14 to me subpoenaing you in May, that this gun was
15 Brian Troupe's?

16 A No.

17 Q Did you ever contact the U.S. Attorney's
18 office prior to us subpoenaing you in May that
19 this gun was Bryan Troupe's gun?

20 A No.

21 Q Did you ever contact the FBI that this gun
22 was Bryan Troupe's gun and not Willie Boyd's gun?

23 A No.

24 Q So the first time that you made mention of
25 the fact that this was Willie Boyd's gun -- was

SHARON TROUPE

A When he had it. Like say you're in a bag, looking in a bag or whatever. I guess he like raise up something, you know. But I couldn't tell, you know, what kind of gun it was or whatever. But it wasn't my business. I wasn't worried about it.

Q What was he doing with the gun?

* A He said he was doing some undercover work working with the Feds or whatever. So I didn't question him.

Q But you never saw what else was in that bag?

A No, I didn't. And the U.S. Marshal didn't show me what else was in that bag either, because they kept telling me to get back or go downstairs or upstairs.

Q So you don't know what was in the bag or what was not in the bag?

A No, I didn't. Only thing I knew was it was a gun. I could see the top of a gun or whatever. But I couldn't tell you no other contents that was in that bag. But I know what the marshals put in the bag though.

Q What did the marshals put in the bag?

1 SHARON TROUPE

2 A When he had it. Like say you're in a bag,
3 looking in a bag or whatever. I guess he like
4 raise up something, you know. But I couldn't
5 tell, you know, what kind of gun it was or
6 whatever. But it wasn't my business. I wasn't
7 worried about it.

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10 working with the Feds or whatever. So I didn't
11 question him.

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13 bag?

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15 show me what else was in that bag either, because
16 they kept telling me to get back or go downstairs
17 or upstairs.

18 Q So you don't know what was in the bag or
19 what was not in the bag?

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21 was a gun. I could see the top of a gun or
22 whatever. But I couldn't tell you no other
23 contents that was in that bag. But I know what
24 the marshals put in the bag though.

25 Q What did the marshals put in the bag?

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SHARON TROUPE

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A They put in the wallets that you showed me last time, and they also put in those keys, because the keys were in the car, and they also put in that little planter you showed me.

Q What --

A That little planter you showed me. That little black planter.

Q Last time when you testified you didn't say that they put that stuff in the bag.

A You didn't ask me.

Q Well, we talked about things like that. What were the keys in the car; what type of car was that?

A It was in a Lincoln, that brown like some Lincoln or whatever.

Q Last time you testified that the marshals were very respectful and very polite when they came in; isn't that true?

A Yes.

Q Don't you think it would be very abnormal for you to state that if they're planting items on somebody if they were respectful and very judicious on how they performed their duties? So you're sort of changing how they were.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED
OCT 15 1997

UNITED STATES OF AMERICA,

Plaintiff,

U. S. DISTRICT COURT
St. Louis, Missouri
October 6, 1997
10:20 a.m.

vs.

Cause No. 4:97CR301 (SNL)

WILLIE BOYD,

Defendant.

TRANSCRIPT OF THE EVIDENTIARY HEARING
BEFORE THE HONORABLE MARY ANN L. MEDLER
UNITED STATES MAGISTRATE JUDGE

TRANSCRIPT ORDERED BY: Gary Gaertner

APPEARANCES:

For the Plaintiff:

Richard Poehling
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Recorded By:

Lisa Nichols, Court Recorder

Transcribed By:

Carter Transcription
& Reporting Company

25

I N D E XWITNESSES FOR THE GOVERNMENT:

	<u>DIRECT</u>	<u>CROSS</u>
LUKE ADLER	3	32/57
JOSEPH CUSTER	75	81

1 A I saw a handle of what I believed at the time, to be a
2 handgun.

3 Q Okay. And upon seeing the handgun in the closet, did
4 you take any action with respect to the rest of the deputies?

5 A I informed them, or I yelled, -- I don't know how yell
6 loud (sic), but I yelled out that I had found a weapon.

7 Q Okay. And did you see anything else in the closet that
8 caught your attention besides the weapon?

9 A Next to the weapon, there was a black bag.

10 Q Okay. Did you take any action with respect to those
11 objects at that time?

12 A At that time, I looked, -- the bag was open and what I
13 saw at the time was a scale, some currency, and a clear
14 plastic bag inside which I believed, -- it had white powder,
15 I thought was cocaine.

16 Q Okay. Did you take any of that stuff out of the bag or
17 handle the contents of the bag at that point?

18 A No sir.

19 Q Okay. Did you move the bag at that point?

20 A No sir.

21 Q Okay. What did you do next after you saw these objects?

22 A At that time, Deputy McKee responded upstairs and I
23 informed him that I found a pistol or handgun, I don't know
24 exactly what I said, but I informed him I found a gun in the
25 closet and that he needed to secure the rest of the upstairs

1 because I have not yet done so.

2 Q All right. And was that done next then, the rest of the
3 upstairs was secured for other, -- the possible presence of
4 other people?

5 A Yes sir.

6 Q Was it determined that there was no one else up there?

7 A Correct.

8 Q Okay. Now, did Deputy McKee leave or did he respond
9 back to your location in, -- would it be fair to call that a
10 rear bedroom or a master bedroom, how do you refer to that?

11 A Master bedroom.

12 Q Okay. Did Deputy McKee respond back to the master
13 bedroom?

14 A Yes sir.

15 Q Okay. Did you take any action with respect to either
16 the bag or the weapon that you had seen in the closet?

17 A When he returned, I had already taken the weapon and the
18 bag out of the closet and put it, -- placed it on the bed.

19 Q Okay. When you arrived up there, was the closet door
20 open?

21 A Yes sir.

22 Q Okay. Now, after you placed these objects on the bed,
23 was there some action taken with respect to the firearm
24 itself?

25 A I informed Deputy McKee that I have not rendered it safe

1 and he took that initiative and did that himself.

2 Q Okay. Now, "render it safe" basically means unloading
3 the weapon?

4 A Yes sir.

5 Q Okay. Is that policy before you transport weapons, that
6 they're rendered safe?

7 A Yes sir.

8 Q All right. That was done in your presence, is that cor-
9 rect then?

10 A Correct.

11 Q And did you remain in the bedroom while that, -- after
12 that was done, the master bedroom?

13 A Yes sir.

14 Q Were you joined subsequently by other deputies in the
15 master bedroom?

16 A Yes, Deputy Adler responded upstairs.

17 Q Okay. All right. And upon his responding, these items
18 were then on the bed, is that correct?

19 A Yes sir.

20 Q Okay. Did you do anything further with those objects,
21 other than, -- I mean, did you at some point just maintain
22 visual custody of these to make sure they didn't disappear?

23 A At that time, yes sir.

24 Q Okay. Were they ultimately taken into the physical
25 custody of Detective, -- excuse me, Deputy Adler?

- 1 Q And Mr. Boyd was transported to where?
- 2 A To the Jennings City Jail.
- 3 Q And how did he get to the Jennings Jail?
- 4 A Deputy Graue and myself transported him.
- 5 Q All right. You were in the same car, you and Deputy
- 6 Graue same car with Mr. Boyd?
- 7 A Yes sir.
- 8 Q Okay. Now, in the course of driving to the Jennings
- 9 Jail, did you have some conversations with Mr. Boyd?
- 10 A Yes sir, we did.
- 11 Q And did Mr. Boyd make some statements to you relative to
- 12 the weapon that you had seized?
- 13 A Yes sir.
- 14 Q Could you tell the Court how that came about?
- 15 A I told him, -- originally, I told him that that was a
- 16 nice gun that he has.
- 17 Q You told him, meaning Mr. Boyd?
- 18 A Mr. Boyd.
- 19 Q All right.
- 20 A I said, "Hey, that's a nice gun that you have. I know,
- 21 I've got one myself, they're good guns".
- 22 Q All right.
- 23 A And he just kind of laughed at that.
- 24 Q All right.
- 25 A And then I said, "Hey, seriously, I hope you didn't have

1 that gun for us, that you would, you know, have it to shoot
2 the police when we come for you".

3 Q Okay.

4 A And he said, "No, you know, the reason I had that gun is
5 'cause all the shit going on in the street". He said, "Home
6 invasions and stuff like that". That's pretty well verbatim
7 what he said.

8 Q All right. Now, present for the statement is yourself,
9 Mr. Boyd, -- was Deputy Graue present for that statement?

10 A Yes. Well, yes and no. He had actually stepped out of
11 the vehicle and had gone to the garage door at Jennings.

12 Q At the Jennings Jail?

13 A Yes sir, to get, -- you've got to call them on this
14 little outside phone in order to get them to open the door.

15 Q So, it's a security-type entrance?

16 A Yes sir.

17 Q All right.

18 A And then he came back around and was actually standing
19 on the outside of the car, but the car door was open.

20 Q Okay. So you don't know whether or not he heard it?

21 A No sir.

22 Q Okay. With respect to the statement that Mr. Boyd made
23 to you regarding the gun, did you make any threats, or any-
24 body, -- any other law enforcement officer to your knowledge
25 make any threats against Mr. Boyd or members of his immediate

1 Q. Now you said at the same evidentiary hearing
2 that you saw what you thought was the handle of a
3 pistol because the gun was under something.

4 What was the gun under?

5 A. I don't know. I didn't hear you, I'm sorry.

6 Q. You stated at that same evidentiary hearing that
7 you saw what was the handle of the pistol under
8 something.

9 What was it under?

10 A. It was wrapped in a towel.

11 Q. Okay. And having been wrapped in a towel, were
12 you in a position to ascertain at that moment that
13 it was a pistol?

14 A. I observed a handle which I believed to be a
15 pistol.

16 Q. What portion of it was exposed exactly?

17 A. Don't -- the grip part where you would wrap your
18 hand around it.

19 Q. At any time during the course of your presence
20 at 2091 Victory Way Lane on February 1st, 1997 did
21 you observe Willie Boyd in possession of the
22 contraband that was located in the black bag, its
23 contents or the weapon?

24 A. Did I position it?

25 Q. Did you observe him in physical possession of

1 you talk to Mr. Boyd when you took Mr. Boyd down to
2 where you were locking him up?

3 A. Yes. We transported Mr. Boyd down to the
4 Jennings City Jail and as we got near that area,
5 right before we dropped him off, I began to talk to
6 him about the weapon.

7 Q. And what did you say, if anything, to Mr. Boyd
8 at that time?

9 A. Well, initially I told him, I said, "Willie,
10 that's a nice gun that you have there. I know
11 because I have one just identical to it, just like
12 it."

13 Q. What was --

14 MR. EPSTEIN: This goes -- I'll interpose
15 an objection based on the same reasons set forth in
16 the motions to suppress evidence.

17 THE COURT: Again, those objections will be
18 continuing. I'll allow you to renew them again now,
19 and they will be overruled.

20 MR. EPSTEIN: Thank you.

21 Q. What was Mr. Boyd's reaction, if anything?

22 A. He just laughed at that.

23 Q. And what happened after that, if anything?

24 A. The second time I said, "Seriously, I hope you
25 didn't have that gun for us, for the police when

1 they came after you," and he said, "No. You know
2 the reason I had that, because all the shit going on
3 in the street, all the home invasions and shit."

4 Q. Did he say anything else with regard to the gun?

5 A. No, sir, that was it.

6 Q. After your discovery of Mr. Boyd's -- of
7 arresting Mr. Boyd, did you have an opportunity to
8 do any further investigation which revealed any
9 other arrests?

10 A. Yes, sir, I did.

11 Q. And what -- what did your investigation reveal,
12 if anything?

13 A. That Mr. Boyd had been arrested by St. Louis
14 city detectives in I believe it was November of 1996
15 under the alias of Billy Jackson.

16 Q. Could that have been November 6th of 1995 that
17 he was arrested?

18 A. Yes, sir.

19 Q. And with regard to your dealings with Mr. Boyd,
20 when did you first start dealing with Mr. Boyd, sir?

21 MR. EPSTEIN: I pose an objection, Your
22 Honor, based on relevance.

23 MR. GAERTNER: Your Honor, it goes --

24 THE COURT: Well, I'm not sure what the
25 question means in any event, so the objection will

1 City jail. We knew where he was at.

2 Q. And you -- you had whatever it was that you had
3 found at 2091 Victory Way Lane.

4 What else was there to do beyond that?

5 A. Yes, sir. Well, we had found evidence
6 indicative of drug distribution.

7 Q. And so what did do you with that evidence?

8 Did you turn it over to the DEA, or did the
9 local police or --

10 A. Well, to the local police. We took it to the
11 St. Louis Metropolitan Police Department Crime Lab
12 and asked them to process that evidence.

13 Q. Okay. What about a particular key ring
14 identified as Government Exhibit 2-M I believe?

15 What did you do with that?

16 A. I took those keys and went out to various
17 properties and tried those keys in various locks at
18 those properties.

19 Q. Why was that necessary?

20 A. I did that at the direction of the United States
21 Attorney's Office to see if those keys fit the locks
22 in those properties.

23 Q. What was that going to adduce for you in the way
24 of apprehending this fugitive?

25 A. Well, we had already apprehended the fugitive.

1 We had him in custody. He was at the Jennings City
2 jail I believe still at the time.

3 Q. You were looking for something else obviously,
4 or Mr. Gaertner was looking for something else.

5 What did he indicate to you that would -- he was
6 seeking or looking for?

7 A. He didn't indicate anything to me that he was
8 seeking or looking. He asked me to try those keys
9 in those properties. -- I had discovered a number of
10 properties during this investigation that were
11 associated with Mr. Boyd.

12 Q. What were you going to do in terms of the
13 evidence that the keys fit the properties?

14 How is that significant in terms of your
15 apprehension of this fugitive?

16 A. It's not significant in the apprehension of the
17 fugitive.

18 Q. And did you endeavor to ask Mr. Gaertner whether
19 you should get a warrant, conducted that kind of
20 investigation?

21 A. No, sir, I never asked.

22 Q. Did he tell you that you needed to get a warrant
23 to conduct that type of an investigation?

24 A. No, sir. I believe he asked me if the keys fit
25 those properties, so I took the keys out and tried

1 them to see if they did fit the properties.

2 Q. What about the inquiry I just presented to you
3 before about the warrant, the necessity of getting a
4 warrant?

5 You didn't feel that was necessary?

6 A. No, sir, I never inquired.

7 Q. And Mr. Gaertner didn't suggest to you hey,
8 we've got time now, they're no longer any emergency
9 or exigent circumstances, let me get a warrant for
10 purposes of that further investigation?

11 A. What type of warrant are you speaking of, sir?

12 Q. You are going to places that have nothing to do
13 with the apprehension of Mr. Boyd and it's all extra
14 jurisdictional in terms of going to those places.
15 You already apprehended your fugitive, you found
16 what was immediately approximate to him in
17 accordance with your protective sweep.

18 What else was there to do?

19 A. Yes, sir. Well, in my training, attached with
20 the DEA, one of my big concerns, one of my jobs out
21 there was to investigate properties that were either
22 utilized in drug distribution or were proceeds
23 thereof.

24 Q. What evidence did you have preliminary to your
25 testing those keys that those properties were either

1 utilized in drug investigation or they were proceeds
2 thereof?

3 What kind of investigation did you do to
4 ascertain that?

5 A. Well, my main focus on the primary investigation
6 was apprehension of the fugitive, Willie Boyd.

7 During that investigation we came across a
8 number of these properties that we believed Willie
9 Boyd had an interest in and he owned straw property
10 as it were.

11 Q. What basis did you have to believe that he had
12 any interest in these properties?

13 A. I --

14 Q. What he indicated on his IDs that you alleged
15 were misrepresentative?

16 A. What we were told.

17 Q. By who?

18 A. Individuals that we interviewed.

19 Q. What individuals?

20 A. People who we talked to out there, at those
21 properties, and/or confidential informants.

22 Q. It's your testimony today that they said that
23 Willie Boyd owned those properties?

24 A. Yes. Some of them, yes.

25 Q. And that based upon that, that's why you tested

1 keys at those properties; is that right?

2 A. No, sir. I tested the keys in the property
3 because the United States Attorney's Office asked me
4 if those keys fit those properties.

5 Q. And what was the reason given to you for asking
6 you if those keys fit those properties by Mr.
7 Gaertner?

8 MR. GAERTNER: Your Honor, that question
9 has been asked and answered by Mr. Epstein.
10 Marshal --

11 THE COURT: Well, I think it is repetitive.
12 I'll allow it to come in one more time.

13 A. He asked me if they fit. I took the keys out
14 there, tested it to see if they did fit.

15 Q. That was also in accordance with your own
16 investigation that you felt was necessary to
17 ascertain whether they were properties of Mr. Boyd;
18 isn't that right?

19 That's what you just testified to a minute ago.

20 A. Run that by me again.

21 Q. A minute ago you testified that you were going
22 out to examine those properties because you had
23 information that somehow or another that they may
24 have been the proceeds of illicit drug dealings,
25 whether they may have been properties of Mr. Boyd or

1 properties of Mr. Boyd utilized in his drug
2 dealings, and now you're also saying that Mr.
3 Gaertner instructed you to go out to see if the keys
4 fit.

5 Aren't those purposes interrelated?

6 A. Well, no, sir. I believe that all those
7 properties were indicative of drug distribution
8 and/or associating with Mr. Boyd. However, I would
9 never have gone back out there to those properties
10 until the U.S. Attorney's Office asked me if those
11 keys fit.

12 Q. Had you had any kind of preliminary
13 investigation done with respect to titles and
14 documentation indicating ownership of those
15 properties?

16 A. No, sir, not -- nothing extensive, no, sir.

17 Q. So you -- in reality, you had nothing concrete
18 other than a guesstimation that those properties has
19 something to do with Willie Boyd; isn't that true?

20 A. No, sir, it was more than a guess.

21 Q. Then you said people told you that they were,
22 but you can't identify the people; isn't that true?

23 A. Various individuals that we spoke to.

24 Q. The particular properties that you went and
25 tested the keys on were 1403 East Desoto, 1435 East

1 Desoto and 1412 Shaw; isn't that correct?

2 A. No, sir.

3 Q. What properties did you test the keys on?

4 A. 1403 East Desoto, 1435 East Desoto, 4212 Shaw.
5 4161 Flad.

6 Q. What was that last one?

7 A. Flad. F-L-A-D. And 3780 West Florissant.

8 Q. 3780 West Florissant?

9 A. No, sir. West Florissant.

10 Q. Florissant. Okay.

11 Let's start with 1403 East Desoto.

12 Who is the occupant of that property?

13 A. I don't -- I don't recall the name. I -- with
14 1403 and 1435, they're real close to each other, on
15 the same side of the street in that 1400 block of
16 East Desoto. One of those residences appeared to be
17 abandoned when I went up there to test the keys and
18 I spoke to a man who informed me he was Willie
19 Boyd's cousin. I don't recall his name. He was
20 there and he was changing the lock on the front door
21 when we got there. He told me he was there at the
22 behest of Willie Boyd. I asked him if I could check
23 these keys that I had to see if they would fit those
24 locks and that's when he informed me, well, he was
25 changing the lock on that front door.

1 Q. I -- this was at 1403 East Desoto?

2 A. I believe it was at 1403, yes, sir.

3 Q. And the man ask you whether or not you had a
4 warrant?

5 A. No, sir.

6 Q. Just said, "Fine," you know, "I don't know who
7 you are but go in and take a look"?

8 A. Oh, he knew who I was. I identified myself to
9 him and went through my credentials I carry and
10 showed him my credentials.

11 Q. And with respect to 1435 East Desoto, who did
12 you encounter there?

13 A. I don't recall the gentleman's name. He was in
14 wheelchair.

15 Q. Would his name have been Alonzo Wrickerson?

16 A. It may well have been. I don't recall.

17 Q. You recall a female being present at that
18 property as well?

19 A. No, sir.

20 Q. With respect to 4212 Shaw, who'd encounter at
21 that property?

22 A. When I tested the keys at that property, I ran
23 into the same gentleman I talked to before who
24 informed me he was the occupant of 4212 Shaw. He
25 was a gentleman that used crutches. He had some

1 Q. So you testified basically that the keys came
2 out of the bag, so you're assuming that they were
3 Willie Boyd's keys.

4 You testified that properties were somehow or
5 another associated with Willie Boyd but there was no
6 preliminary document related investigation to
7 confirm that the titles to those properties were
8 Willie Boyd's, and yet you went out there and you
9 tried those keys on those properties, try to
10 interconnect them with Willie Boyd.

11 Isn't that what your testimony is?

12 A. I tested the keys to confirm his association
13 with the properties, yes, sir.

14 Q. Did you go back to those properties, any of
15 them, at any point in time after you had tested the
16 keys?

17 A. No, sir.

18 Q. Did you ask Mr. Boyd for consent to test the
19 keys to those properties?

20 You had him in custody by that point in time and
21 you're assuming that those properties were his in
22 some way or another?

23 A. Yes, sir. No, I never asked him for permission
24 to test the keys.

25 Q. Did you bother to even ask him whether he had a

1 direction in June of 19978?

2 A. No, sir. I never directed anyone to go to those
3 properties.

4 Q. When you tried the keys at 4212 Shaw, when would
5 that have been?

6 A. I tested those keys all in the same day.

7 Q. What day?

8 A. Specifically which date that is, I don't recall.

9 Q. Would it have been in early February of 1997?

10 A. Yes, sir, I believe so.

11 Q. And you went to one of those properties there,
12 was an auto mechanic shop; is that correct?

13 A. Yes, sir, it would appear to be, the address at
14 3780 West Florissant, I believe.

15 Q. Okay. And who did you encounter there?

16 A. Well, there was several guys standing outside
17 the property.

18 As I said before, I asked them all collectively
19 where the owner was and was told he wasn't there.

20 Q. Okay. Did they indicate to you who the owner
21 was?

22 A. Subsequently, yes, sir.

23 Q. And you say subsequently. Did you go back there
24 another time?

25 A. No, sir. Later on that same visit.

1 Q. Okay. And who did they say the owner was?

2 A. Well, there's a gentleman that was doing most of
3 the talking. I don't recall his name, but he
4 identified himself to me later on after I tested the
5 keys as Willie Boyd's brother.

6 Q. And did you ask that person for consent to
7 search the property?

8 A. No, sir, I never searched the property.

9 Q. Did you ask him for consent to try the keys?

10 A. No, sir. When I first asked them who the owner
11 was, who the manager was, who was in charge, they
12 said no, the owner wasn't there, the manager was not
13 there and no one was in charge, so I went up there
14 and tested the keys. After that time, he told me
15 that he was Willie Boyd's brother.

16 Q. Did he say his name?

17 A. He may have told me his name. I don't recall.

18 Q. Can you describe the individual?

19 A. He's a black male, probably late 40s,
20 approximately six foot, two ten.

21 Q. And again that was the property that you
22 believed to be owned by Willie Boyd --

23 A. Yes, sir.

24 Q. -- to be associated with his drug usage or
25 involvement?

1 A. Yes, sir. I know his brother told me that
2 Willie owned it.

3 Q. Did you go and confirm with Mr. Boyd before
4 testing the keys in the lock of the property?

5 A. No, sir. As I stated before, I never asked
6 Willie Boyd anything about any of those properties
7 or if I could have permission to test them.

8 Q. You didn't think his consent would be necessary
9 or that a warrant would be necessary; is that right?

10 A. Not to test keys, no, sir.

11 Q. Did you ever ask Mr. Gaertner whether you needed
12 the consent of individuals to search the property
13 who were owners of the property, whether you needed
14 consent to test the keys?

15 MR. GAERTNER: Your Honor, I would object.
16 It's been asked and answered and it's irrelevant
17 with regard to this trial.

18 THE COURT: Well, it has something to do
19 with the credibility, but let's move on, counsel.
20 We have pretty well gone over this --

21 MR. EPSTEIN: Okay.

22 THE COURT: -- unless you have something
23 new to ask.

24 Q. Do you have a property on West Florissant that
25 you went to?

1 THE COURT: All right. Any follow-up,
2 counsel?

3 MR. EPSTEIN: Yes, Your Honor. I don't
4 know if it's necessarily follow-up, but probably
5 omitted, so I apologize.

6 Q. (By Mr. Epstein:) Did you determine that a
7 fellow by the name of Albert Greer was changing the
8 locks on a particular property on Desoto when you
9 arrived?

10 A. I don't recall the name offhand, counselor.
11 There was a gentleman that was changing the lock on
12 one of the addresses there --

13 Q. And isn't it --

14 A. -- which I believe was 1403.

15 Q. Did you ask that individual why the locks were
16 being changed?

17 MR. GAERTNER: It calls for hearsay, Your
18 Honor, I would object.

19 THE COURT: Well --

20 MR. EPSTEIN: I don't see how it calls for
21 hearsay.

22 THE COURT: He hasn't asked for the answer
23 yet. He just asked for the question.

24 Q. Did you ask the person why the locks were being
25 changed?

1 A. Yes, sir, I did.

2 Q. Was there a response?

3 A. Yes, sir, there was.

4 Q. Okay. What was the response?

5 MR. GAERTNER: It calls for hearsay, Your
6 Honor.

7 THE COURT: Be sustained.

8 Q. Did you observe that property -- either of the
9 properties on Desoto had been broken into when you
10 went there?

11 A. No, sir.

12 Q. You have any information that other officers had
13 been there prior to you and endeavored to search
14 those properties?

15 A. What the individual told me who was changing the
16 locks --

17 MR. GAERTNER: Your Honor, I -- I would
18 object. It calls for hearsay on the part --

19 THE COURT: All right. Be sustained.

20 Q. When you went to these different premises, did
21 you ask any of the individuals to sign a consent to
22 search form much like you did with Sharron Troupe?

23 A. No, sir.

24 Q. Why not?

25 A. I never searched those properties.

1 Q. Were there any other individuals with you when
2 you tested these keys other than the occupants of
3 the properties?

4 A. Yes, sir.

5 Q. Who would they have been?

6 A. My partner at the time was Deputy Graue.

7 MR. EPSTEIN: I have nothing further, Your
8 Honor.

9 THE COURT: Redirect?

10 MR. GAERTNER: Yes, Your Honor.

11 REDIRECT EXAMINATION BY MR. GAERTNER

12 Q. Deputy, with regard to your investigation after
13 Mr. Boyd was arrested as a fugitive, did the
14 investigation concerning Mr. Boyd's involvement with
15 narcotics and guns continue with your involvement in
16 the case, sir?

17 A. Yes, sir, it did.

18 Q. And with regard to that, at the time you
19 discovered a group of keys within this bag; is that
20 correct?

21 A. Yes, sir, that's correct.

22 Q. And with regard to those keys, were you aware of
23 different properties that Mr. Boyd had given where
24 he had lived previously or where he had worked
25 previously?

1 Q. Did he describe to you what type of an
2 investigation it was regarding?

3 A. No, sir.

4 Q. And there's several items turned in to you.
5 Do you recall specifically what they were?

6 A. I wouldn't know unless I looked at my report and
7 the receipts. They deal with the items I looked at
8 on the stand.

9 Q. Okay. Well, there was a weapon turned in to
10 you.

11 Do you recall a particular weapon identified as
12 a Glock nine by 19 semi-automatic pistol?

13 A. Yes, sir.

14 Q. That was just shown to you as an exhibit; is
15 that correct?

16 A. Yes.

17 Q. Okay. With respect to that exhibit, did you
18 perform tests on it?

19 A. I processed it for fingerprints.

20 Q. Okay. What type of a test did you perform?

21 A. It's a superglue process.

22 Q. Okay. And can you describe the superglue
23 process in some detail if you will?

24 A. Yes, sir.

25 You take small amount of superglue, scientific

1 name is cyanoacrylate ester, you put it on the hot
2 plate and you take the weapon and put it, along with
3 that superglue, in a closed container.

4 Q. And when did you first become familiar with that
5 method?

6 A. Approximately four and a half, five years ago
7 when I first went into the evidence technician unit.

8 Q. And was it considered a state of the art method
9 at that point in time?

10 A. It's considered a tool to process some items for
11 fingerprints.

12 Q. Is it a fairly accurate type of method?

13 A. Yes, sir.

14 Q. Does it have a particular degree of inadequacy
15 or degree of error that is indicated to you in any
16 kind of manuals describing the method?

17 A. Yes, sir.

18 Q. Okay. Can you indicate what that is?

19 A. Some items are just better off using fingerprint
20 powder on than the superglue. Superglue may have a
21 tendency to destroy a fingerprint or cover it up.
22 You can overprocess a weapon or evidence with
23 superglue and it will just make the whole thing
24 white and you wouldn't be able to detect any
25 fingerprints.

1 Q. Okay. Did you try any of the alternative
2 methods with any of the exhibits that are -- have
3 been presented to you by the government here today
4 for your identification?

5 A. Oh, well, my -- the process will consist of
6 visual examination before the superglue process and
7 I did the superglue process and another visual
8 examination and I was unable to find any fingerprint
9 evidence except for those other two items where I
10 did or the one -- the other item that did use
11 fingerprint powder on.

12 Q. You weren't able to lift any prints off of any
13 of the items that had been presented to you?

14 A. No, sir. There were no identifiable prints on
15 those items.

16 Q. Okay. What does that indicate to you in terms
17 of how recently the items might have been handled?

18 A. I -- I don't know. I can't offer an opinion as
19 to length of a fingerprint left on or not left on.

20 I --

21 Q. Generally in terms of talking about fingerprints
22 being left on items, isn't that -- they're fairly
23 clear prints or easily liftable, isn't that
24 indicative of the fact they've been handled fairly
25 approximate to the time that they were taken in to

1 custody and presented to you?

2 A. No, sir. Depending on the conditions,
3 fingerprint can last quite a while on an item.

4 Q. Okay. Generally how long do fingerprints last
5 on an item?

6 A. It is hard to say. There's no way to tell.

7 Q. Okay. On items with metallic surfaces of the
8 nature of the weapons that have been described here
9 today, how long do fingerprints last on those items
10 generally?

11 A. I can't give you a time, sir. There's no way to
12 tell.

13 Q. Okay. Normally it would be some vestige of a
14 print, though, on one of those items if it had been
15 handled within days of them being turned into the
16 crime laboratory for your inspection, wouldn't they?

17 A. Oh, there was ridge detail I could see on the
18 firearm. There was just nothing identifiable.

19 Q. What type of detail did you see on the firearm?

20 A. Well, a fingerprint is a reproduction of the
21 friction ridge skin on an object and you could see
22 part of the reproduction on the items.

23 There's ridges-like the furrows and the valleys
24 you see on the skin and some of that detail consists
25 of ending ridges, bifurcations or dots.

1 Q. Did you attempt to identify those particular
2 types of prints or images with any of the prints
3 other than the individual who is identified for you
4 as Billy Jackson?

5 A. No, sir. Upon my examination of these items, I
6 found there were no identifiable prints, so I did
7 not make a comparison of the friction ridge evidence
8 to the suspect.

9 Q. How were the items wrapped when they were
10 presented to you?

11 A. In evidence bags.

12 Q. Okay. Show you what's been marked for
13 identification purposes as Government's Exhibit
14 Number 2-A. Can you identify that?

15 A. Yes, sir.

16 Q. What is that?

17 A. It's plastic bags containing white substance.

18 Q. Okay. When you perform your test for prints, do
19 you remove the white substance in the outer bag?

20 A. No, sir, I did not.

21 Q. Okay. Where do you actually conduct -- what
22 surface do you actually examine in terms of the
23 white powder?

24 A. The exterior surface and anything that's
25 exposed.

1 Q. Of the respective bags that are within the
2 exhibit; is that what you're saying?

3 A. Yes, sir. The exterior of the bag and the loose
4 portion, the flap.

5 Q. What type of test do you perform on the exterior
6 of the bag and loose portion of the flaps?

7 A. This again was the superglue process to develop
8 fingerprints.

9 Q. And did you attempt any other alternative method
10 with respect to those items, the plastic bags
11 containing the white powder?

12 A. Just the visual inspection prior to superglue
13 and then a visual inspection after supergluing.

14 Q. Did you observe any kind of prints or imagery of
15 any kind whatsoever?

16 A. These particular items were smudges.

17 Q. Okay. Did you do any kind of a comparison
18 between the smudges that you located on these
19 particular items and on the weapon surfaces,
20 metallic surfaces, that you had described before?

21 A. No, sir.

22 Q. Okay. So you wouldn't know whether they were
23 even one and the same, would you?

24 A. No, sir, I would not.

25 Q. Is there any practical method scientifically for

1 conducting a test like that?

2 A. It's -- it would be a visual comparison. If the
3 fingerprint evidence on this plastic bag were
4 identifiable and the fingerprints on the firearms
5 were identifiable, they could be compared that way.

6 Q. With respect to -- let me show this to you.
7 Maybe you can identify this particular government
8 exhibit.

9 A. Which item are --

10 Q. Let me see. I guess the first item would be
11 Government's Exhibit 2-E; Government's Exhibit 2-F;
12 Government's Exhibit 2-D; Government's Exhibit 2-G;
13 Government's Exhibit 2-H.

14 Are you familiar with those items?

15 A. Yes, sir.

16 Q. And when did you first receive them in custody?

17 A. On February 5th when I processed them.

18 Q. And how did you receive them?

19 A. They were turned over to me in the laboratory.

20 Q. Okay. Were they in the plastic bags or in an
21 all-encompassing type of plastic bag when they were
22 turned over to you?

23 A. Evidence bag.

24 Q. Where was the bag received from?

25 A. Deputy Luke Adler turned it in.

1 Q. What types of test did you perform on services
2 of those -- what looked to be like prescription
3 bottles?

4 A. Again, it was official examination and then I
5 processed it using superglue method and then I used
6 a visual examination again.

7 Q. Were you able to lift any discernible imagery
8 off of that?

9 A. No, sir, there were no identifiable prints
10 found.

11 Q. Okay. Do you use any alternative methods for
12 purposes of ascertaining whether there was any of
13 the imagery of prints on those items?

14 A. No, sir.

15 Q. Show you what's been marked for identification
16 purposes as Government's Exhibit 2-P and 2-Q.

17 Can you identify those items again for the
18 record?

19 A. I don't recall these items.

20 Q. Okay. They were presented to you for purposes
21 of lifting prints; is that not correct?

22 A. I don't recall them. I didn't process -- I
23 don't -- I didn't process these items for
24 fingerprints.

25 Q. Were you asked to?

1 A. I don't believe so.

2 Q. What would be your normal course of undertaking
3 when those items are presented to you?

4 Would you assume the purpose of the presentation
5 was?

6 A. I'm sorry. I don't understand.

7 Q. In other words, if items of that nature, which
8 appear to be wallets or billfolds and calendar of
9 some kind or another are presented to you, aren't
10 they for purposes of examining them for latent
11 prints?

12 A. Yes, sir. I mean any evidence that is given to
13 me is processed for prints usually.

14 Q. Why would those particular items have been
15 excluded?

16 A. I don't know.

17 Q. Just an oversight?

18 A. I never received these items to be processed for
19 prints. I don't know why they would not have been
20 given to me.

21 Q. Okay. No -- there were no instructions
22 regarding these items one way or the other?

23 A. No, sir.

24 Q. Okay. Show you what's been marked for
25 identification purposes as Government's Exhibit 2-R,

1 and were you instructed to examine that item for
2 items -- prints or latent prints?

3 A. No, sir.

4 Q. Okay. And none were done?

5 A. No, sir.

6 Q. Is there any reason why those three items that
7 were in essence purses would have been omitted?

8 A. Again, I don't know.

9 Q. Show you what's been offered for identification
10 purposes as Government Exhibit 2-I. Can you
11 identify that item?

12 A. No, sir.

13 Q. Was that presented to you for purposes of
14 examining its contents for prints?

15 A. No, sir.

16 Q. Show you what's been marked for identification
17 purposes as Defendant's Exhibit A.

18 Are you familiar with that item?

19 A. This is the evidence packaging the narcotics
20 were turned into.

21 Q. And what were the contents of that packaging?

22 A. It's -- item one, plastic bag containing
23 approximately 7.59 -- I can't read part of it -- of
24 white powder.

25 Item two, one plastic bag containing

1 approximately 29.4 grams of white powder.

2 Item three, one plastic bag containing four
3 brown-beige capsules.

4 Q. And within this package are you familiar with
5 how these items are contained, or are they contained
6 in any other kind of a package or plastic bagging,
7 or would you not know that?

8 A. I don't remember.

9 Q. You were not given any instructions to perform
10 the lifting of the latent prints from any other
11 items within that particular exhibit either?

12 A. Well, that -- that packaging contains the drugs
13 I believe.

14 Q. Did it?

15 Did you perform any latent prints on this
16 particular package?

17 A. On the package itself, no, sir, would have been
18 the contents.

19 Q. And did you perform -- do you recall performing
20 any kind of testing for latent prints on the
21 contents of this package?

22 A. Yes, sir.

23 Q. And what was in it?

24 A. What I just read off the package.

25 Q. Okay. And did you find any latent prints?

1 A. No, sir.

2 Q. Did you find any imagery of any kind?

3 A. Smudges.

4 Q. Okay. Did you perform any alternative forms of
5 the test to see if you could get a better latent
6 print lifted from the smudges?

7 A. No, sir. I was able to determine the smudge was
8 not worth trying to lift or photograph.

9 Q. Okay. So in terms of the significance of these
10 particular exhibits that I've just read off to you
11 and the metallic surfaced exhibits that are weapons,
12 there's nothing from a fingerprint standpoint that
13 would interconnect those items with the defendant,
14 Willie Boyd, or the individual who identified as
15 Billy Jackson; is that correct?

16 A. Yes, sir.

17 Q. Okay.

18 MR. EPSTEIN: I have nothing further for
19 this witness, Your Honor.

20 THE COURT: Redirect examination?

21 MR. GAERTNER: Your Honor, I have no
22 further questions of this witness.

23 THE COURT: Can the witness be excused?

24 MR. GAERTNER: Yes, Your Honor.

25 MR. EPSTEIN: Yes.

1 for identification purposes as Government's Exhibit
2 Number 2.

3 Are you familiar with this item?

4 A. Yes.

5 Q. And what is it?

6 A. It's a black duffel bag.

7 Q. Okay. And where was the last time you would
8 have seen this black duffel bag?

9 A. It was in the back of the closet in my bedroom
10 closet.

11 Q. Okay. And you associate this black duffel bag
12 with Willie Boyd?

13 A. No.

14 Q. Who do you associate this black duffel bag with?

15 A. My brother, Bryant Troupe.

16 Q. Okay. And prior to February 1st, 1997, when
17 would the most recent time have been that you would
18 have seen Bryant Troupe?

19 A. Approximately the last two weeks of January.

20 Q. Okay. Did Bryant come to visit you fairly
21 frequently?

22 A. Yes.

23 Q. Okay. Were you home most often when he would
24 visit you?

25 A. No. He had a key, so he was in and out on his

1 for identification purposes as Government's Exhibit
2 Number 2.

3 Are you familiar with this item?

4 A. Yes.

5 Q. And what is it?

6 A. It's a black duffel bag.

7 Q. Okay. And where was the last time you would
8 have seen this black duffel bag?

9 A. It was in the back of the closet in my bedroom
10 closet.

11 Q. Okay. And you associate this black duffel bag
12 with Willie Boyd?

13 A. No.

14 Q. Who do you associate this black duffel bag with?

15 A. My brother, Bryant Troupe.

16 Q. Okay. And prior to February 1st, 1997, when
17 would the most recent time have been that you would
18 have seen Bryant Troupe?

19 A. Approximately the last two weeks of January.

20 Q. Okay. Did Bryant come to visit you fairly
21 frequently?

22 A. Yes.

23 Q. Okay. Were you home most often when he would
24 visit you?

25 A. No. He had a key, so he was in and out on his

1 own.

2 Q. Okay. Why did he have a key to your premises?

3 A. Because he was having problems with one of his
4 girlfriends as usual and he was staying over when he
5 got mad at her or whatever the case may have been.

6 Q. So he would use your place as kind of a place of
7 refuge?

8 A. He always have been, ever since I --

9 Q. Okay. And when would the most recent time in
10 relationship to February 1st, 1997 have been that
11 you saw Bryant in possession of that black duffel
12 bag?

13 A. Approximately the last two weeks in January.

14 Q. Okay. And what occasion caused him to come to
15 your premises then?

16 A. Just to stop by or just, I guess, wherever. He
17 had the contents of the black bag, and to take a
18 shower.

19 Q. Now had you ever seen the contents of the black
20 bag prior to February 1, 1997?

21 A. No.

22 Q. And did you ever observe previously where Mr.
23 Troupe would leave the black bag within your
24 premises?

25 A. He would leave it in the closet.

1 Q. Is it within an apartment complex of some kind?

2 A. Yes.

3 Q. What is the name of that apartment complex?

4 A. Victorian Village Town Homes.

5 Q. How many bedrooms does it have?

6 A. Two bedrooms.

7 Q. Okay. And at that time were you still working
8 at McDonald's?

9 A. Yes.

10 Q. All right. And Mr. Boyd moved out, did you see
11 him again any time soon after he moved out?

12 A. Moved out of where?

13 Q. 2091 Victory Way Lane?

14 A. He never lived there.

15 Q. Okay. When you severed your relationship, when
16 was the next time you would have seen him after
17 that?

18 A. I talked with him the day of his arrest. I
19 haven't seen him since then.

20 Q. Okay.

21 A. Prior to that.

22 Q. When you are referring to the day of his arrest,
23 what day would that have been?

24 A. February 1st.

25 Q. That would have been 1997?

1 A. Yes.

2 Q. And that's the arrest in this particular case?

3 A. Yes.

4 Q. And had he come to see you?

5 A. No. He called -- well, he called me earlier the
6 day at work around five because I was getting off at
7 five and asked could he come over to talk to me.

8 Q. Okay. And you agreed to that?

9 A. Yes.

10 Q. And did you agree to meet somewhere or another?

11 A. I told him he could come over to the home, to my
12 house, and I would be there approximately in a
13 couple hours.

14 Q. And did he have a way of gaining entrance to
15 your house or a key at that point in time?

16 A. No. Muhammad was there, so he was able to let
17 him in.

18 Q. Okay. He was visiting with his son until you
19 came home?

20 A. Yes.

21 Q. Okay. What time would it have been that you
22 arrived home?

23 A. I would say approximately between 6:30 and 7:00.

24 Q. Okay. Where was Mr. Boyd when you arrived home?

25 A. He was in the bathroom.

1 A. Yes.

2 Q. And he carried a couple wallets with him? If
3 you're aware.

4 A. I guess.

5 Q. And where were those wallets?

6 A. They were on the bed.

7 Q. Mr. Troupe never kept clothes, Bryant Troupe, at
8 2091 Victory Way Lane, did he?

9 A. I guess the clothes that he might have had in
10 his bag and the clothes he had on when he took a
11 shower or whatever.

12 Q. And he never stayed there at night, did he?

13 A. Yeah, sometime he did.

14 Q. Well, did Muhammad ever tell you that Mr. Troupe
15 had a gun, Bryant Troupe, your brother?

16 A. He say he saw one.

17 Q. And did you ever do anything when he told you
18 about that Mr. Troupe allegedly had a gun in that
19 apartment of yours?

20 A. Did I -- did I ever do anything?

21 Q. Yes. Did you do anything? Did you talk to Mr.
22 Troupe about whether he had a gun in there?

23 A. He said he had it for his own protection, so I
24 guess it was legal for him to have a gun.

25 Q. Did Muhammad ever tell you he saw Mr. Troupe

1 A. Yes.

2 Q. In the closet indicated at the master bedroom.

3 And is that where you keep your clothes in that
4 closet, too?

5 A. Yes. Yes.

6 Q. And does Willie keep his clothes in that closet,
7 too?

8 A. No.

9 Q. Well, let me show you what's -- this is on page
10 17 of the grand jury on May 14th. This would be
11 starting on -- actually page 16, starting on line
12 25.

13 If I can show you, Miss Troupe?

14 A. Uh-huh.

15 Q. Have you had enough time to read through that?

16 A. Yeah. But I didn't answer that question,
17 though.

18 Q. Let me read the question to you from the grand
19 jury on page 17, line -- starting on paragraph 25 at
20 page 16 of the grand jury from May 14.

21 "Q. And this is in the closet; correct? The
22 bag was where the bag --

23 THE COURT: Counsel, can you read question
24 and answer so we --

25 MR. GAERTNER: That's the question, and

1 this was the question.

2 "Q. And this was in the closet, correct?

3 "The bag was. Where was the bag?

4 "A. In the closet.

5 "Q. And that's where you keep your clothes, in
6 that closet?

7 "Some of them, yes.

8 "Q. And Willie keeps his clothes in that
9 closet, too?

10 "A. Uh-huh."

11 Is that what you answered in the grand jury?

12 A. I see the word, but it was like I say uh-huh.
13 Say "uh," maybe I was ready to answer another
14 question or a complete the question and then went --
15 you asked another question that was totally
16 irrelevant to what you just said.

17 Q. Well, did you answer "uh-huh?" That's a yes,
18 correct, to that question?

19 A. I said "uh" as if I was going to answer the
20 question and then you asked another question, so I
21 didn't even give an answer.

22 Q. And you said you'd had a falling out with Mr.
23 Boyd; isn't that correct?

24 A. Yes.

25 Q. But at the time you came and testified on May

1 A. Yes.

2 Q. Was there anybody monitoring this bag at that
3 point in time?

4 A. Yes.

5 Q. And who would that have been?

6 A. Garrow, the Marshal Garrow.

7 Q. Graue would that be?

8 A. Yes.

9 Q. Was he doing anything particularly with the bag
10 when you observed him?

11 A. They were putting things in the bag such as they
12 were going through the drawers, through my drawers,
13 getting information, like the books, the planners,
14 keys, anything I guess they feel that was helpful
15 and they just pile it all into this bag.

16 Q. So they were kind of using the bag as a place to
17 compile all of this stuff?

18 A. Exactly. And I was asking them what was in the
19 bag and they kept telling me to get back, but, you
20 know.

21 Q. When you say they kept telling you to get back,
22 who are we talking about?

23 A. Adler and Garrow.

24 Q. And did they indicate why they wanted you to get
25 back?

1 THE COURT: Cross-examination?

2 CROSS-EXAMINATION BY MR. GAERTNER

3 Q. Now, Miss Troupe, you testified here about
4 having a gun put to your head, having the marshals
5 put items in this bag --

6 A. Yes.

7 Q. -- such as keys.

8 Did -- what else did they put in there?

9 A. Some planners, like a address book, two black
10 address books.

11 Q. So basically you are saying the marshals planted
12 evidence in that bag; is that correct?

13 A. I was -- only thing I said was that they put the
14 two planner --

15 Q. You said they planted --

16 THE COURT: Let her finish the answer,
17 counsel.

18 A. They put the two planners in the bag, they put
19 papers in the bag, they put keys in a bag. That's
20 only thing I saw them put in a bag.

21 I wasn't aware of the contents of the bag
22 because when I was trying to look in the bag, they
23 was telling me to get back.

24 Q. Okay. And they forced to you sign the consent
25 to search the house; correct?

1 A. It could have been.

2 Q. Do you know?

3 A. No. Huh-huh.

4 Q. Directing your attention to Government's Exhibit
5 2-Q, Government's Exhibit 2-R, what are these?

6 A. Two wallets.

7 Q. Okay. And how were these wallets significant to
8 you?

9 A. Those wallets were in the -- I think they took
10 them out his pocket. His pants were on the bed
11 and -- along with his keys and those wallets, if I'm
12 mistaken, was either in his pants or they were on
13 the side of his pants and the Adler, Lou Adler, took
14 them out off the bed and put them inside the black
15 bag.

16 Q. How would you know that? Did you see Mr. Adler?

17 A. Yeah. When he brought me back -- when they
18 brought me back upstairs again, the -- ask me
19 questions about the different things, he picked up
20 the wallets and put them aside.

21 Q. When was the most recent time prior to February
22 1st, 1997 that you would have seen these wallets?

23 A. I really couldn't recall.

24 Q. And you mentioned earlier medication that Willie
25 took for stomach problems.

1 Q. And when you say they had other stuff in their
2 hands, do you know what they had in their hands?

3 A. One of them, he had a black bag.

4 Q. Okay. Let me show you what's been marked for
5 identification purposes as Government's Exhibit
6 Number 2, and I know you have a visual problem, so
7 I'll bring it a little closer.

8 Was this the black bag that you saw?

9 A. I think so.

10 Q. Excuse me?

11 A. I don't think so.

12 Q. Speak into the microphone?

13 A. I think so.

14 Q. Okay. And you see them carry in other items,
15 you know, outside of the black bag?

16 A. No.

17 Q. Okay. And with respect to this black bag,
18 Government's Exhibit Number 2, had you ever seen it
19 anywhere previously?

20 A. What are you talking about?

21 Q. This black bag. Had you ever seen it anywhere
22 other than on that particular occasion on February
23 1st, 1997?

24 A. Yes, I have.

25 Q. Okay. And where would you have seen it?

1 A. With Brian -- Brian, my brother. He come over
2 with it every once in a while.

3 Q. And when you say Brian, who are you referring
4 to?

5 Is this his full name?

6 A. Brian Troupe.

7 Q. Okay. And in relationship to February 1st,
8 1997, when would the most recent time have been that
9 you saw Brian Troupe with that black bag?

10 A. It was like a week before they locked him up,
11 before they came to our house.

12 Q. About a week before when?

13 A. Before they came to our house.

14 Q. Okay. How were you aware that they had locked
15 him up?

16 A. I was there.

17 Q. When Brian Troupe was locked up?

18 A. No, not him. My father.

19 Q. Okay. So it was about a week before they locked
20 your father up and you say --

21 A. Yes.

22 Q. -- and who had the black bag then?

23 A. Brian Troupe.

24 Q. And you say that he had come to your house?

25 A. Yes.

that you saw him coming in there?

A. I either be sitting downstairs watching t.v. or in my room watching t.v..

Q. Okay. Did you ever see Brian Troupe handling drugs?

A. Couldn't say I have.

Q. Did you ever see Brian Troupe handling a gun?

A. Yes.

Q. Okay. And where and when would that have been?

A. In Sharron room.

Q. And is that at 2091 Victory Way Lane?

A. Yes.

Q. Okay. Let me show you what's been marked for identification purposes as Government's Exhibit Number 1. And look at it closely.

Can you label it, study it?

Have you ever seen that exhibit before?

A. Yes.

Q. And where had you seen it?

A. In grand jury.

Q. Okay. Had you ever seen it before going before the grand jury before?

A. I think I have. I ain't never seen it up close.

Q. Had you ever seen anything quite like it?

A. Yeah.

1 Q. And who did you see with something like it?

2 A. Brian.

3 Q. When you say Brian, who are you referring to?

4 A. Sharron's brother, Brian Troupe.

5 Q. Okay. And do you recall specifically whether
6 you saw something like this, or was it very much
7 like this?

8 A. Yeah.

9 Q. Excuse me?

10 A. Yeah, I think so.

11 Q. And when you say you saw it, where were you when
12 you saw him with it?

13 A. Walking through the house.

14 Q. Okay. And was he brandishing it and pointing it
15 at you?

16 A. No, no.

17 Q. What was he doing with it?

18 A. It was just sitting on the bed next to him.

19 Q. Next to him.

20 And do you remember approximately when in
21 relation to February 1st, 1997 it would have been in
22 terms of days or weeks that it was sitting on the
23 bed next to him?

24 A. A good month before August.

25 Q. Okay. And you say it was sitting on the bed

1 next to him, how did you happen to see that?

2 A. I was walking -- I was walking through the house
3 and glanced in to my right.

4 Q. Excuse me?

5 A. I was going towards my room and my room's right
6 across from hers and I looked to my right and I saw
7 that -- the gun.

8 Q. Okay. And that was in -- when you say her room,
9 Sharron's room?

10 A. Sharron's room.

11 Q. And you saw it with Brian Troupe?

12 A. Yes.

13 Q. Okay. And let me show you what's been marked
14 for identification purposes as Government's Exhibit
15 2-K.

16 Had you ever seen that before?

17 A. No.

18 Q. Had you ever seen anything quite like that
19 before?

20 A. No.

21 Q. Do you know what that is?

22 A. No.

23 Q. And with respect to Government's Exhibit 2-J,
24 had you ever seen anything like that before?

25 A. No.

1 Q. Is that the black bag?

2 A. Yes.

3 Q. And when you say the black bag, you are
4 referring to the black bag that you squabbled over
5 with Brian Troupe?

6 A. Yes, sir.

7 Q. Okay. And why was he squabbling with you over
8 that bag?

9 A. Well, he was just keeping it at my apartment.
10 He asked me could he keep it there and I said yes,
11 but I wasn't home previous before before he had, you
12 know, came back looking for the bag.

13 Q. And do you know what he used that black bag for?

14 A. Oh, all I know is -- no, not really. He just
15 had lots of stuff in it. You know, I didn't really
16 pay attention. Just kept it there.

17 Q. Okay. Where were you living at that point in
18 time?

19 A. 8817 Carson Court.

20 Q. And is there some police report that you would
21 have filed --

22 A. Yes.

23 Q. -- concerning that incident?

24 A. Berkeley Police Department took a police report.

25 Q. Okay. And how frequently had you seen Brian

1 Troupe with that black bag?

2 A. Oh, he comes by like maybe two times out of a
3 week.

4 Q. Did you ever know Brian Troupe to carry a
5 weapon?

6 A. Yes.

7 Q. Did you ever know Brian Troupe to have cocaine
8 in his possession?

9 A. Yes.

10 Q. Do you remember most recently when you would
11 have seen him with a weapon or cocaine in his
12 possession?

13 A. That day. He kicked in my door.

14 Q. Okay. And where was that cocaine kept?

15 A. In the black bag.

16 Q. Okay. And where was the weapon kept?

17 A. In the bag.

18 Q. Let me show you what's been marked for
19 identification purposes as Government's Exhibit
20 Number 1 in multiple parts.

21 Could you examine that for a moment?

22 A. Yeah.

23 Q. Are you familiar with that item?

24 A. Uh-huh.

25 Q. And how so are you familiar with that item?

testifying he ever used the name Billy M. Jackson.

MR. GAERTNER: It said that he possessed a Mercedes or owned a Mercedes.

THE COURT: Can I see the document?

MR. EPSTEIN: Yes, Your Honor.

THE COURT: All right.

Again, I'm going to overrule the objection and receive Government's Exhibit 28. I think there is some evidence with respect to the Mercedes and certainly evidence with respect to someone named Billy Jackson, so I think it has some relevance and I will receive the document.

MR. GAERTNER: Your Honor, I'm prepared to go forward with my witness at this time.

THE COURT: All right.

MICHAEL NEAL, GOVERNMENT'S REBUTTAL WITNESS,

SWORN.

DIRECT EXAMINATION BY MR. GAERTNER

Q. Would you please state your name, please?

A. Michael Neal.

Q. And what is your occupation, sir?

A. I'm a detective for the City of Berkeley.

Q. And with regard to being a detective for the City of Berkeley, do you have access to police

1 Department, sir?

2 A. Yes, I do.

3 Q. And do you have -- as a detective for the City
4 of Berkeley -- and do you have access to the
5 computer system concerning the maintenance of police
6 reports in the Berkeley Police Department?

7 A. Yes, I do.

8 Q. And with regard to those, you're familiar with
9 the operation and retrieval of documents from there;
10 is that correct?

11 A. That is correct.

12 Q. As part and parcel as being a detective for the
13 City of Berkeley, part of your responsibilities is
14 the ability to retrieve and recover police reports
15 and incident reports from the police department of
16 Berkeley's record section; is that correct, sir?

17 A. That is correct.

18 Q. And with regard to -- did you receive a request
19 to review the records for the City of Berkeley
20 concerning an incident involving a Lorre Troupe
21 during the month of January of 1997 at 8817 Carson
22 Court?

23 A. Yes, I did.

24 Q. And with regard to that, is 8817 Carson Court in
25 the City of Berkeley, sir?

1 A. Yes, it is.

2 Q. And with regard to it, did a woman by the name
3 of Lorre Troupe ever report or have a report made by
4 the Berkeley Police Department January of 1996
5 involving an incident with an individual by the name
6 of Brian Troupe?

7 A. You said 1996?

8 Q. 1997.

9 A. No.

10 Q. Was there any other reports concerning Lorre
11 Troupe reporting an incident with a Brian Troupe in
12 the Berkeley reporting system, sir?

13 A. No, there wasn't.

14 MR. GAERTNER: Your Honor, I have no
15 further questions of Detective Neal at this time.

16 THE COURT: Cross-examination?

17 CROSS-EXAMINATION BY MR. EPSTEIN

18 Q. Detective Neal, when you conducted the searches,
19 what span did you go over?

20 A. I did a master search.

21 Q. Okay. And what period did that encompass?

22 A. Well, it would encompass any incident pertaining
23 to that subject's name.

24 We went on a CARE system back in 1996, and if I
25 key Lorre Troupe's name into the computer, it will

1 The objection will be overruled.

2 Q. How many years have been doing that?

3 A. About 23 years.

4 Q. Okay. And are you married?

5 A. Yes.

6 Q. Okay. Any children?

7 A. Yes.

8 Q. Okay. And you still live with your spouse and
9 your children?

10 A. Yes.

11 Q. Okay. And do you have occasion to encounter any
12 law enforcement officers during the time you were
13 working at Boyd's A-1 Auto Repair in early 1997?

14 A. Yes. It was in June.

15 Q. Okay. And was it the first time you had
16 encountered these law enforcement officers?

17 A. Yes, it was.

18 Q. Okay. And do you remember what police
19 department they were from?

20 A. Told me they were federal marshals.

21 Q. Okay. And what -- do you remember the
22 particular day in June that they --

23 A. June 9th, on a Monday.

24 Q. Excuse me?

25 A. It was June the 9th. It was on a Monday.

1 Q. Okay. And that was 1997?

2 A. Yes.

3 Q. And when they came to you, did they indicate to
4 you what their purpose was for coming to you?

5 A. It wasn't the point of them coming to me, I was
6 coming to work, on my way to work. I had noticed
7 that someone was trying to open the door to the
8 shop.

9 Q. Okay. When you say the shop --

10 A. That's --

11 Q. -- what's the location of that shop?

12 A. 3780 West Florissant.

13 Q. And who was trying to open the door to the shop?

14 A. I found out later that officer name was Adler,
15 Atler, or whatever is called.

16 Q. Okay. Did he introduce himself to you on that
17 occasion?

18 A. No, he did not.

19 Q. Okay. Did you ask him what he was trying to do
20 in terms of getting into the shop?

21 A. Yes, I was. I asked him what was he trying to
22 do and then he had opened the bars and when I got
23 out the car, he finally got the door open and the
24 alarm went off and I say, "Excuse me, what you
25 doing?" and he says, "Cut the alarm off" and I went

1 to cut the alarm off because the alarm had went off
2 in the building.

3 Q. So he was trying to open up some bars?

4 A. Right. It has bars and a metal door.

5 Q. Okay. Now what are the bars and the metal door
6 for?

7 A. For security reasons.

8 Q. Okay. And is there a lock on that?

9 A. Yes.

10 Q. And did he seem to have the keys to that lock?

11 A. He had got them open.

12 Q. Let me show you what's been marked for
13 identification purposes as Government's Exhibit 2-M.

14 Have you ever seen that before?

15 A. Yes.

16 Q. Okay. And where did you see it?

17 A. Set of keys that I gave to my brother.

18 Q. Okay. And had you ever seen it after it was out
19 of your brother's possession?

20 A. When the officer was opening the door.

21 Q. Excuse me?

22 A. When the officer opened the door.

23 Q. And which officer are you referring to?

24 A. Adler.

25 Q. Okay. And did he have these in his hands when

1 he was opening the --

2 A. Yes.

3 Q. -- the gate?

4 Is that what you testified to?

5 A. Yes.

6 Q. Okay. And did you question him?

7 A. Yes. I have asked him did he have a search
8 warrant or why was he opening the door and he told
9 me to stand aside, and he didn't say stand aside,
10 but he said, "Stand over there and shut up."

11 Q. Okay.

12 A. And I say, "You can't do this because I'm not
13 the owner, why you come in?" and like that, "without
14 a search warrant" and he said, "If you don't shut
15 up, you interfering with a federal investigation and
16 I can lock you up" and that's when I stepped aside.

17 Q. Did he indicate to you that he was looking for
18 any particular person at that point in time?

19 A. Later on during -- after I was getting ready to
20 leave.

21 Q. Okay. Who did he say he was looking for?

22 A. Said he was looking for my brother and then I
23 said, "Why you looking for my brother?" and he said,
24 "Oh, I've locked him up ten times and I'm going to

1 Q. Now this was June of 1977.

2 Did he indicate why he would be looking for your
3 brother then?

4 A. No, he did not.

5 Q. Okay. Were you aware as to what your brother's
6 status was at that time and where he was?

7 A. No, sir.

8 Q. Okay. Do you know when your brother was
9 arrested on this case?

10 A. No, I don't.

11 Q. Had you been close with your brother at that
12 point in time?

13 A. I hadn't seen him in over a year.

14 Q. And why was that?

15 A. Why was why?

16 Q. That you hadn't seen your brother in over a
17 year.

18 A. Because I go to work and go home.

19 Q. Okay. Did you observe the deputies enter the
20 premises, or did they merely try the locks?

21 A. They -- they -- when it happened, they had
22 opened the bars in the door and the alarm went off
23 and they made me go cut the alarm off and then they
24 start searching the building.

25 Q. Okay. And did you go in with them when they

1 searched the building?

2 A. They made me stand over in the corner and inside
3 the building.

4 Q. Inside or outside?

5 A. Inside.

6 Q. Okay. And did you protest that?

7 A. Yes.

8 Q. Okay. And what was the response?

9 A. That's when I was told that I was interfering
10 investigation and that I would be incarcerated if I
11 stopped them.

12 Q. Okay. They ask you any questions?

13 A. No, they did not.

14 Q. Did you see where within the building they
15 extended their search to?

16 A. Yes.

17 Q. Where would that have been?

18 A. They went into the office.

19 Q. Okay. And you see what they were doing in the
20 office?

21 A. I saw them open the drawers and then all you
22 could hear was fumbling around because you couldn't
23 see past the file cabinet.

24 Q. How was the lighting in the building?

25 A. Lighting was very well.

1 Q. Did you see whether they were recovered anything
2 from within the office or --

3 A. When they came out the office they had some --
4 some -- that he had a car titles and some pieces of
5 paper.

6 Q. Okay. And you were able to observe that.

7 Did they show those to you?

8 A. They had them in their hands and I asked --

9 Q. Did you ask them what they were doing with those
10 documents?

11 A. And then you could see on one of the pieces of
12 paper said Casino Queen and then I could see my
13 mother's name and it was on one of the titles and
14 then I asked him for a receipt for the pieces of
15 paper and they said, "I'll mail you one."

16 Q. Okay. With respect to Deputy Adler, if it was
17 his testimony that he was merely trying the keys in
18 the locks to see if they fit, would that be true
19 though the best of the your knowledge, information
20 and belief?

21 MR. GAERTNER: Your Honor, I would object
22 to the phraseology of the question, calling for this
23 witness to speculate.

24 THE COURT: All right. It will be
25 sustained.

1 premises, the same marshals?

2 A. Yes.

3 Q. And when would that have been?

4 A. Like -- looks like probably about four, five
5 months after.

6 Q. Okay. Would it have been before or after Willie
7 Boyd's arrest?

8 A. After.

9 Q. Okay. And do you remember when Willie Boyd's
10 arrest would have been?

11 A. No, I don't.

12 Q. Would it have been before or after February 1st,
13 1997?

14 A. It was before.

15 Q. When the marshals came to your --

16 A. It was after the marshals came to the house --

17 Q. Okay.

18 A. -- the second time.

19 Q. Okay. Several months after January -- early
20 January of 1997?

21 A. Yes.

22 Q. Okay. The second time they came to your house,
23 did they greet you?

24 A. Yes.

25 Q. Okay. And what was said to you?

1 A. Nothing.

2 Q. Okay. And did they do anything while they were
3 there?

4 A. Yeah, trying some keys in the doors.

5 Q. Okay. And did you give them permission to do
6 that?

7 A. No, I didn't.

8 Q. And did they present a search warrant to you?

9 A. No, they didn't.

10 Q. They indicate to you that they were going to try
11 the keys in the doors?

12 A. They just said these keys, and they just started
13 going to the doors, see what fit. They was like --

14 Q. Did you ask them whether they had a search
15 warrant?

16 A. We always ask them. They asked the first time
17 they came in.

18 Q. Okay. And what did the keys look like?

19 A. It was lot of them. I can't describe them.

20 Q. Let me show you what's been marked for
21 identification purposes at Government's Exhibit 2-M.
22 Can you examine that for a moment?

23 A. Yeah, it was --

24 Q. Are those the keys that you are making reference
25 to?

1 A. Yeah.

2 Q. And when they tried those keys, did they do
3 anything other than simply try them in the locks?

4 A. Well, they just tried them in the lock and they
5 went around to the back and I don't know what they
6 did around the back.

7 Q. Do you know whether they entered the premises?

8 A. I don't know about that.

9 Q. Excuse me?

10 A. They didn't enter it through the front. They
11 might have through the back. I don't know.

12 Q. All right. On that occasion several months
13 later, I believe you testified it was June 1997 --

14 A. Yeah.

15 Q. -- did you see them come out with anything?

16 A. Come out of that, I didn't see them come out.

17 Q. Excuse me?

18 A. No, I don't.

19 Q. Okay.

20 I have nothing further of this witness.

21 THE COURT: Cross-examination?

22 CROSS-EXAMINATION BY MR. GAERTNER

23 Q. Do you know who Billy Jackson is, sir?

24 A. No, I don't.

25 MR. GAERTNER: I have no further questions,

1 coming home and they were leaving, they had already
2 been to the house.

3 Q. Excuse me?

4 A. Sometime in June they came back, but I was --
5 when I was coming, they were leaving.

6 Q. Okay. So you saw them on your way out?

7 A. Right.

8 Q. And where were you headed?

9 A. I was coming home.

10 Q. Okay. And you see them with anything in their
11 possession at that point in time?

12 A. No.

13 MR. EPSTEIN: I have nothing further for
14 this witness, Your Honor.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION BY MR. GAERTNER

17 Q. You're close to your father; is that correct?

18 A. Yes.

19 Q. And you knew you used an alias, Billy Jackson,
20 for a period of 1996; is that correct?

21 A. No, I did not.

22 Q. Didn't he used to put you down as an emergency
23 contact person to call?

24 A. Yes.

25 Q. And did you ever get an emergency contact

1 A. At that time, all resistance ceased from behind
2 the door. We were able to enter the office area.
3 Immediately I observed a weapon on the floor
4 directly at the feet of the black male individual.

5 Q. Let me slow you down for one second.

6 When the door opened up, where was the defendant
7 standing?

8 A. Standing still in the doorway.

9 Q. In the doorway?

10 A. Yes, sir.

11 Q. And did you observe anything close to him, sir?

12 A. Yes, sir.

13 Q. And what did you observe?

14 A. I observed a handgun to be on the floor at the
15 feet of Billy Jackson and also I observed a clear
16 plastic cellophane bag containing an off-white chunk
17 which I believe to be crack cocaine, which was later
18 analyzed to be cocaine base.

19 Q. And with regard to the firearm, how far away
20 from the defendant was the firearm?

21 A. Inches away from his feet.

22 Q. And how far away was the substance that was on
23 the ground?

24 A. Just a couple of inches away from the handgun
25 that was on the floor.

1 Q. And was there any other individuals in the lobby
2 area?

3 A. No, sir.

4 Q. Were there any individuals on the outside of the
5 building at the time that you entered?

6 A. No, sir.

7 Q. At the time that you took the defendant out of
8 the Cole's Motel, did Mr. Boyd do anything with
9 regard to the door to the Cole's Motel?

10 A. Yes, sir.

11 Q. What did he do, if anything, sir?

12 A. He had a set of keys on his person, at which
13 time he locked the entire hotel up.

14 Q. And what occurred at that time, sir, if
15 anything?

16 A. He was conveyed to the Area III detective
17 bureau.

18 Q. And at the station, was Mr. Boyd searched, sir?

19 A. Yes, sir.

20 Q. What was discovered, if anything, in the search
21 of Mr. Boyd at the station?

22 A. \$775 in U.S. currency, various denominations.

23 Q. And at the station, did you have an opportunity
24 in which to discuss with Mr. Boyd any -- any things?

25 A. Yes, sir.

1 Q. And did Mr. Boyd make any statements to you?

2 A. Yes, he did.

3 Q. And what did he state to you, if anything, sir?

4 A. He stated that he was the friend of the owner of
5 the Cole's Motor Lodge and that he was awaiting the
6 arrival of this particular guy and that he did not
7 partake any illegal activities, and in response to
8 other questioning, he stated that he kept a firearm
9 on his person for protection.

10 Q. At that time, did you have an opportunity when
11 he was at the station to take his possession?

12 A. Yes, sir.

13 Q. And were there -- did Mr. -- I mean Mr. Boyd
14 have any identifications on him that you recall?

15 A. Yes, sir.

16 Q. And what type of identifications were they?

17 A. He had a Missouri's driver's license.

18 Q. And what name was that Missouri driver's
19 license, sir?

20 A. Billy Jackson.

21 Q. And with regard to that information, receiving
22 the driver's license, did you -- was there -- was
23 that normal or did you find it abnormal for the
24 individual to have presented the Missouri driver's
25 license to you?

1 Q. Have you ever heard the name Billy Jackson
2 before?

3 A. No.

4 Q. Okay. With respect to Mr. Boyd, how were you
5 familiar with him?

6 A. He was the maintenance man for my father.

7 Q. And how long had he been a maintenance man, to
8 your knowledge?

9 A. For at least -- I'm saying about at least five,
10 maybe six years, somewhere around there. I'm not
11 for sure exactly. Only years. He's been a
12 maintenance man for quite some time.

13 Q. Now on the evening of November 6th, 1995, were
14 you aware of any particular duties that Mr. Boyd was
15 performing at Cole's Motel?

16 A. Yes.

17 Q. Okay. What were those duties?

18 A. I had told him that I needed him to lay some
19 tile on the floor in the hall and this was one of
20 the duties that he was doing, was laying tile on the
21 floor in the hallway.

22 Q. Had you been over there at some point in time
23 earlier in the evening to confirm that that was what
24 he was doing?

25 A. Yeah. Because I had let him in the office to

1 get the materials that he needed.

2 Q. Okay. And about what time on November 6th, 1995
3 would that have been?

4 A. That would have been, I guess -- I would say
5 around about maybe four, five o'clock in the
6 evening.

7 Q. Okay. And was anybody working with Mr. Boyd or
8 assisting him in any way or another that particular
9 evening?

10 A. Yes. I had another gentleman that stayed on the
11 property, Mr. Harris. He was helping Willie.

12 Q. Okay. And I guess you had gone over to your
13 liquor store for some period of time during the
14 evening?

15 A. Yes, I had went back to work.

16 Q. Now directing your attention to Cole's Motel
17 particularly, did your father maintain an office
18 there?

19 A. Yes.

20 Q. Okay. And in relation to the entrance of the
21 motel, where would the office have been?

22 A. I'm walking up to the motel, coming to the front
23 door, the -- the entrance to his office would be to
24 your left.

25 Q. Okay. Now in accessing the motel, is there one

1 Q. Okay. And could you describe the officer who
2 you ran into?

3 A. Someone of a heavyset white male with gray hair.

4 Q. Okay. And do you know what he was doing?

5 A. He was in the process of coming out of the
6 building. Him and another officer, they both had
7 arms in their -- guns in they hand when they came
8 out.

9 Q. Okay. Let me show you what's been marked for
10 identification purposes as Government's Exhibit
11 18-A.

12 Are you familiar with this, sir?

13 A. Yes, I am.

14 Q. How are you familiar with it?

15 A. That's gun of my father's.

16 Q. Okay. And where was that gun maintained on
17 November 6th, 1995?

18 A. In his office up underneath the desk.

19 Q. And did you refer to it as a sawed-off shotgun
20 or rifle or --

21 A. It's a double barrelled shotgun is what it is.

22 Q. And do you know what brand it might be?

23 A. Not exactly. But not -- I don't know exactly
24 what brand it is, but it's been in the office for
25 many a year. I do know that.

1 Q. And how many years would you say it was there
2 roughly?

3 A. I would say at least 20 years.

4 Q. Okay. And do you know --

5 A. Or more.

6 Q. Do you know why your dad would have maintained
7 this weapon around his office?

8 A. Well, we had numerous of robberies before.

9 Q. Okay. And where would the weapon have been
10 positioned in his office?

11 Would you know enough about the office to be
12 familiar with that?

13 A. Yes, sir.

14 Q. Okay. And where would it have been in relation
15 to say to the door of the office?

16 A. Directly as you would come in the front -- in
17 the front door of the office, it would be right --
18 positioned right on the left-hand side up underneath
19 the desk.

20 Q. And with respect to these guns, when you saw the
21 officers coming out with them, did you make any
22 comments to the officers?

23 A. Yeah, I asked the one officer when -- the one I
24 stated, the heavyset white male, what was going on
25 and he in turn told me that he had taken these

1 weapons, and that process when I was talking to him,
2 that's when Willie and another guy was on his ways
3 coming out, the other officers were bringing him out
4 of the building.

5 Q. Did you indicate to the officer that you were
6 familiar with those weapons at that point in time?

7 A. Right. I had stated to the officer, I say,
8 "those guns that he has in his hands belong to my
9 father."

10 Q. Okay?

11 MR. GAERTNER: Your Honor, can I interrupt
12 one second?

13 Present this.

14 THE COURT: Let's take just a moment so I
15 can sign the writ.

16 Let the record show we have accommodated the
17 defendant by interrupting these proceedings in order
18 to allow him to have a witness appear to testify on
19 his behalf who has been arrested by state of
20 Missouri officials and is currently incarcerated in
21 the St. Louis city jail. I have issued a writ of
22 habeas corpus ad testificandum and given it to
23 United States Marshal and to other agents involved
24 with this case, and -- namely, James Green, so that
25 the writ can be executed and the witness can be

1 Q. Today you testified as to recognizing at least
2 one weapon of government's exhibit that was
3 maintained in the office of the motel by your
4 father.

5 Was that the only weapon that your father
6 maintained?

7 A. No.

8 Q. What else would have been -- excuse me.

9 What other weapons would have been maintained in
10 that office?

11 A. Okay. In the right-hand corner of the drawer on
12 the right side of the desk he had a .45 revolver, I
13 think that was a Colt, and he had a .357 Magnum and
14 a nine millimeter.

15 Q. Okay. So how many weapons in all did he have in
16 the desk area?

17 A. Three.

18 Q. Okay. Were they all kept in the one drawer?

19 A. Yes.

20 Q. Were any of the weapons kept, you know,
21 somewhere outside of the drawer?

22 A. On the back side behind the desk he had a .22
23 rifle and one of them the left-hand side and then
24 one on the right-hand by a file cabinet he had
25 another .22 rifle.

1 heavyset, three or four children, having been at the
2 premises. Did you see where they went off to?

3 A. They left in a car.

4 Q. Okay. Do you recall what kind of a car it would
5 have been?

6 A. Not exactly, but I don't -- I don't recall
7 exactly what kind of car it was and I do know that
8 they did leave in a car.

9 Q. Fairly sure it wasn't a police car?

10 A. It could have been.

11 Q. Was it a --

12 A. Because it was plenty of them up there.

13 Q. Excuse me?

14 A. It was plenty of them up there.

15 Q. Okay. And with respect to your testimony
16 concerning who would have had keys to the offices in
17 the premises of the motel, clarification purposes,
18 did Mr. Boyd at that point in time have keys?

19 A. He was the maintenance man. He had keys to
20 several doors, but the door basically to the office
21 is the key that I would have and I would open that
22 door for him if I need -- if he need to get in
23 access to it.

24 Q. And you said your father drove a black and gold
25 Mercedes?

1 Q. Okay. And are you familiar with that premises
2 other than as the resident?

3 Do you work there?

4 A. Yeah. I -- you know, I know the area, know the
5 surrounding area, yeah.

6 Q. And had you seen Willie Boyd there earlier on in
7 the evening?

8 A. He worked there, yeah.

9 Q. Okay. When you say he worked there, what was
10 his position?

11 Do you know?

12 A. Well, we -- he do maintenance, and we would --
13 particularly that particular evening we putting down
14 tile. We putting down some tile in the middle of
15 the hall lobby, and we was doing tile work.

16 Q. When you were doing that tile work, what hour of
17 the evening would that have been?

18 A. It had to be before nine o'clock.

19 Q. Okay. And was that being done with Mr. Cole's
20 authorization?

21 A. Yes, sir.

22 Q. And did anything interrupt your doing of that
23 tile work?

24 A. No, sir. We just went so far and we stopped.

25 Q. Excuse me?

1 not for sure. I think it was red, I'm not for sure.

2 Q. Okay. Would you know as of November 6th, 1995
3 how long Willie Boyd would have been working at
4 Cole's?

5 A. I say over a year that I knew of.

6 Q. And would you know approximately how long he had
7 been residing or staying at Cole's?

8 A. I just know him to work there, I never --

9 Q. Excuse me?

10 A. I just knew him to work there but never a
11 resident, to stay there.

12 Q. And at any time that you saw Willie Boyd at
13 Cole's Motel, and particularly on November 6th,
14 1995, did you ever see him in possession of cocaine?

15 A. No, sir.

16 Q. Did you ever see him in possession of a firearm
17 of any kind?

18 A. No, sir, never have.

19 CROSS-EXAMINATION BY MR. GAERTNER

20 Q. How did you first meet Mr. Boyd, sir?

21 A. Through Mr. Cole or William Cole.

22 Q. And would you say you're friends with Mr. Boyd?

23 A. We was working friends, yeah.

24 Q. Did you know his family also?

25 A. No, sir.

1 really say because it was just a glance in and
2 glance out.

3 Q. So you don't really recall much about that
4 evening; correct?

5 A. Not around the officer, no.

6 Q. Did you -- did Mr. Boyd have keys to that
7 office?

8 A. No, sir.

9 Q. Did you have keys to it?

10 A. No, sir, I didn't.

11 Q. Who had keys to that office?

12 A. Mainly his son.

13 Q. What? Mainly his son?

14 A. Yeah.

15 Q. And his son wasn't there; correct?

16 A. No, he was at the liquor store.

17 Q. He was at the liquor store?

18 A. Yeah.

19 Q. That -- he runs that liquor store?

20 A. Yeah.

21 Q. It's called Putz's?

22 A. Right.

23 Q. So he was out there. So can you tell me who was
24 at the motel who either worked there like you in
25 maintenance or like Mr. Boyd or who was a manager on

1 THE COURT: Let the record show that for
2 the purpose of my deliberation in this case, I have
3 obviously heard all of the evidence in this case.
4 I've had an opportunity to observe the witnesses who
5 have testified here. Last evening the defendant
6 provided to me the documents which had been received
7 in evidence and the government did the same and I
8 have reviewed those and I need about ten minutes to
9 review my notes and then I'm going to be ready to
10 announce the verdict in this case.

11 All right. We'll be in recess for ten minutes
12 and then I'll be prepared to announce a verdict.

13 MR. GAERTNER: Do you want any more of the
14 evidence?

15 THE COURT: No.

16 (Temporary recess.)

17 THE COURT: In the case of United States
18 versus Willie E Boyd, as indicated a few moments
19 ago, I have considered the documents in this case
20 last night and during the course of the trial and
21 all the evidence in this matter as well as the law
22 governing all of the issues in this case and having
23 done that, I'm prepared to announce my decision in
24 this matter.

25 The Court finds that the defendant, Willie E.

1 Boyd, is guilty as charged in the superseding
2 indictment in all counts: Count 1; Count 2; Count
3 3; Count 4; Count 5; Count 6; Count 7, and Count 8.

4 The Court also finds the defendant guilty in
5 Count 10 insofar as is required to find for the
6 government concerning the forfeiture counts and as
7 to Count 10, finds for the government on those
8 counts, that count.

9 Under Rule 22 of the Rules of Criminal
10 Procedure, in a case tried without a jury, the Court
11 shall make a general finding and shall, in addition,
12 on request, find the facts especially.

13 If an opinion or memorandum of decision is
14 filed, it shall be -- it will be sufficient the
15 findings of fact appear therein. There has been no
16 request for specific findings of fact, but I am
17 going to do so in any event.

18 Under the provisions of United States v.
19 Johnson, it's a Circuit Court of Appeals case coming
20 from Georgia, 496 F.2d, 1131, the Court has the
21 right to make special findings or general findings
22 which are not contemporaneous with the issuance of
23 the verdict and judgment in this case.

24 Accordingly, I will issue those special findings
25 within the next seven days and forward them to

1 counsel.

2 All right. If the defendant will come forward
3 with counsel, please.

4 I will have the probation officer prepare a
5 presentence investigation report in this matter.
6 Sentencing will be set for July the 13th at one
7 o'clock. That's on a Monday.

8 Does that conflict with any schedule you have,
9 Mr. Epstein?

10 MR. EPSTEIN: May I look at my calendar for
11 a moment, Your Honor?

12 I think that should be fine, Your Honor.

13 THE COURT: Mr. Gaertner?

14 MR. GAERTNER: That's fine, Your Honor.

15 THE COURT: Sentencing July the 13th, 1998
16 at one o'clock and a presentence investigation
17 report as stated will be ordered by the probation
18 officer.

19 All right. The defendant will continue to be
20 remanded to custody.

21 I have another matter that is set now in five
22 minutes. We'll be ready to begin with it, and we'll
23 begin in recess for five minutes.

24 (Recess.)

FILED

MAY 04 1998

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

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIE E. BOYD,

Defendant.

No. 4:97CR301-SNL

MEMORANDUM OF DECISION

This case was tried to the Court without a jury April 13 through April 16, 1998 and the Court, on April 16, 1998, found the defendant guilty as charged in Count I through Count VIII.. There was no request for specific finding of facts but the Court announced that a Memorandum of Decision would be filed in which findings of fact would be contained. See Rule 23(c), Fed.R.Crim.Pro. The Court makes these special findings after the general finding of guilty was entered as it is not necessary that these findings be filed simultaneously with the verdict. U.S. v. Johnson, 496 F.2d 1131, 1138, n. 8, (Ga. 1974), reh'g. denied, 502 F.2d 1168, cert. denied, 95 S.Ct. 1391.

FINDINGS OF FACT

The first eight counts in the indictment involve four separate areas of factual concern. Count I alleges the defendant possessed cocaine with intent to distribute it on February 1, 1997 at a residence known at 2091 Victory Way Lane, St. Louis, Missouri. Count II charges the defendant as being a felon in possession of a firearm, also on February 1, 1997 at 2091 Victory Way Lane. The facts involving these two counts are the same.

Counts III and IV involve the use of a false social security number by defendant, and the facts as to these counts are the same.

Counts V, VI and VII involve the filing of false currency transaction reports and the facts as to these three counts are basically the same.

Count VIII again charges the defendant as being a felon in possession of a firearm, but this occasion involves the date of November 6, 1995 and is at Coles Motor Lodge, 4531 Natural Bridge, St. Louis, Missouri.

Count I and Count II - Drug and Gun Counts

On October 22, 1997 United States Magistrate Judge Mary Ann Medler issued a report and recommendation on certain pretrial motions, which report was approved by the Court. In that report, the Magistrate Judge made certain findings of fact concerning the incident at 2091 Victory Way Lane on February 1, 1997. Those findings begin at page five, and end at page 10. The Court has reviewed those findings and compared them with the evidence adduced at trial by Deputy United States Marshal Luke Adler and Detective Joe Kuster and finds that the evidence adduced at trial is the same as found by the Magistrate Judge in the report and recommendation. Accordingly, the Court adopts those findings of fact as to Counts I and II of the indictment. In addition, the Court received certain documentary evidence which included the black bag found at the time of the search and all of the contents of the bag including scales, cutting agents, other drug paraphernalia and 33.72 grams of a substance containing cocaine. The identification of the material found as cocaine and its quantity was testified to by Joe Stevens, a qualified criminologist. The firearm found by Officer Kuster next to the black bag was also received as evidence.

There was also testimony by Marshal Adler, and reasonable inferences from other evidence, that the quantity of cocaine involved was not a small amount normally used by consumers, but was of a sufficient amount to indicate it was possessed for distribution and sale.

There was evidence on behalf of defendant suggesting that defendant did not own the black bag containing the cocaine or the firearm and that these items were owned by another person. There was also additional evidence on behalf of defendant suggesting that the appearance of the closet and the contents thereof were different than that testified to by the government witnesses. These witnesses were defendant's son, defendant's former girlfriend and relatives of his girlfriend, as well as other relatives of the defendant. All of these persons had serious credibility problems, and the Court did not give substantial weight to their testimony. On the other hand, the government's witnesses were credible and their testimony was bolstered by the documentary items received in evidence.

As to the firearm, Frank Stubits testified for the government as a firearm expert. He found that the Glock, 9mm. pistol, bearing serial no. ALX768US, found in close proximity to the black bag, functioned as contemplated by the manufacturer. He testified that the firearm was made in the state of Georgia and the Court finds that in order to have been found in the state of Missouri it traveled in interstate commerce.

Again, as to Count II, felon in possession of a firearm, Ex. 12G, certified copy of a court record in this district clearly shows defendant had been convicted of the felonies of possession of cocaine with the intent to distribute, possession of heroin with the intent to distribute, and possession of an unregistered machine gun on April 23, 1982.

Although there is no evidence to show that the defendant had actual possession of the cocaine and the firearm, the Court finds that he had constructive possession of these items and that the possession conceivably could have been joint with other persons. The believable testimony is that he admitted to Marshal Adler that the firearm was his and at the time of the search he was in close proximity both to the firearm and the cocaine. He had every opportunity to exercise dominion over both the cocaine and the firearm.

Again after evaluating the testimony of the government witnesses and the defendant's witnesses as to Counts I and II, the Court finds that the government's witnesses are more believable and affords credibility to those witnesses to find that there are sufficient facts to prove beyond a reasonable doubt the legal elements required to convict on Counts I and II.

Counts III to VII - Filing False Social Security No. and Filing False Currency Transaction Reports

The Court finds the evidence concerning these charges is overwhelming against the defendant, and not refuted. David Goodhue testified as the Director of Compliance of the Casino Queen Gambling Boat and as a former Illinois State Gaming Board Official. Oscar Guest testified as a pit boss of the Casino Queen. Greg Fisher testified as the former Casino Queen Assistant Shift Manager who managed the pit areas. Darrin Ferguson testified as a flow person on the Casino Queen. Brian Butting testified as a Special Agent for the Department of Revenue. Leonard Lupa also testified as an IRS agent in criminal investigation. Ron Simpson testified as a Special Agent of the Social Security Department. William Streckfus, a marine captain for 42 years, testified concerning the navigation of the Casino Queen principally on the Missouri side of the Mississippi River.

The testimony of these persons again being unrefuted showed all of the essential elements of Counts III through VII. The defendant was a frequent, rather high-stakes gambler, at the Casino

Queen. While there he used the name of Billy Jackson. Jackson had actually died years earlier. The convincing evidence with documentation shows that defendant, masquerading as Billy Jackson, falsified driver's licenses and other identification items using not only a false social security number but a fictitious name. Defendant's misrepresentations caused the Casino Queen, a gambling casino, to file currency transaction reports which were false because of defendant's misrepresentations as to identification when gambling with cash in excess of \$10,000. Again, the evidence was convincing and beyond a reasonable doubt that all of the elements of Counts III through VII involved had been proved beyond a reasonable doubt.

Count VIII - Possession of a Firearm at Coles Motor Lodge

In this felon in possession of a firearm count, the firearm expert, Frank Stubits, identified the firearm as a Ruger .357 Magnum revolver which was manufactured in Connecticut. Accordingly, it had to travel in interstate commerce as it was found in the state of Missouri. Stubits also testified that the Ruger functioned as contemplated by the manufacturer. Stubits further testified that on March 8, 1997 he destroyed the Ruger in the normal course of business as it had been held one year and one day, and no charge had been filed. The Court finds, therefore, that this does not destroy the credibility of witnesses testifying about this firearm simply because it was not present as an exhibit as it had been destroyed.

The Court further finds as it did in connection with Count II that defendant was a felon having been convicted of crimes punishable by a term of imprisonment exceeding one year under the laws of the state of Missouri.

The principal witness testifying for the government as to Count VIII was Bobby Garrett a St. Louis police officer assigned to the narcotics division. The Court finds his testimony credible.

Garrett testified that on November 6, 1995 he was investigating Cole Motor Lodge at 4531 Natural Bridge Road in St. Louis, Missouri. He and several other officers arrived at the parking lot there after 9:00 p.m. They were in plain clothes and set up a surveillance of the lobby area of the motel. There were customers present and the area was well-lit. Garrett was at the south end of the parking lot in an unmarked police vehicle. For a period of time, he watched seven individuals go in to the motel and go to a back door at the west side of the lobby. Each person would knock on the door and an individual inside would give a package to the person knocking and that person would then hand money to the individual inside the room. Garrett said that the place was quite well illuminated and he was 30-40 feet away, and could see through an open front door of the motel.

On the basis of his experience he felt that there were purchasers of narcotics transacting business in the motel room.

Garrett and several other officers then entered the motel and went to the door of the room involved and knocked. The door opened and a black male occupant identified himself as Billy Jackson. The officers entered and found a room that appeared to be an office. There was a desk there and the officers found a shotgun and a handgun on the floor and a semi-automatic .45 Smith and Wesson all near where Billy Jackson was standing. The other handgun was determined to be the Ruger .357 Magnum revolver.

Garrett seized the firearms and rendered them safe and then had another officer Mirandize Billy Jackson who, in fact, was defendant.

At this stage, the officers heard a toilet flush and then heard running steps and a person, later identified as Larry Hassel, emerged from an adjacent bathroom. There was no contraband found in the bath but there was water on the floor. Garrett assumed that Hassel was destroying contraband.

After defendant was Mirandized, the officers asked to search his person and he consented and \$775 was found in currency on his person and his driver's license showed that he was, in fact, Billy Jackson.

Defendant was arrested and further questioned at the police station. At that point, defendant said he was a friend of the owner of the motel and was waiting for him. He admitted carrying the guns for protection but denied any illegal activity. He also indicated that he had worked as a clerk at the motel, Exhibit 22.

Various persons testified for defendant concerning this count and the Court finds that some of the testimony is not credible but that portions of their testimony are compatible with the evidence on behalf of the government. These persons testified that William H. Cole operated the motel and was involved in other real estate and business ventures but had since died. His son, Eric, operated a liquor store near the motel and was not present during most of the surveillance by the officers and the ultimate arrest. He came to the motel at about 10:15 to 10:30 p.m. and saw certain officers exiting the motel. He testified that his father owned the guns and kept them under his desk and in some of the drawers. He stated the motel charged \$12 to rent a room per hour and \$3 for each additional hour. He denied the motel was used for any clandestine or illegal purpose. He testified that there were doors opening to the lobby of the motel that prevented any one from seeing in unless the doors were open. Another witness testified that William Cole had kept records in the office involved and guns in that area. Some of these witnesses also testified that the lobby was well-lighted.

Again, the Court finds that as to Count VIII, although there is no evidence to show that defendant had actual possession of the Ruger .357 Magnum revolver, he had constructive

possession, which could have been sole or joint with other persons. In addition the believable testimony is that he admitted to Officer Garrett that he had possession of the Ruger as well as the other guns for protection. Obviously, he was in close proximity to the firearm when the officers entered the room and he had every opportunity to exercise dominion and control over the firearm.

The Court, therefore, finds that all of the essential elements required for conviction under Count VIII have been proved beyond a reasonable doubt.

Dated this 4th day of May, 1998.


UNITED STATES DISTRICT JUDGE