

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

STUART L. SMITH,)
)
 Petitioner)
)
 v.) Civil No. 00-178-P-S
) Criminal No. 94-34-P-S
 UNITED STATES OF AMERICA,)
)
)
 Respondent)

RECOMMENDED DECISION

Before the court are Stuart Smith's pleading styled as a petition for writ of error coram nobis, (Docket No. 730) filed June 26, 2000, and Smith's motion for reconsideration of the court's endorsement made on that motion/petition on September 26, 2000, that Smith filed July 9, 2001(Docket No. 749). For the reasons discussed below I now recommend that the court **DENY** both motions.

Background

This case began in 1994 when Smith, along with nine other individuals, was indicted for various offenses including conspiracy to distribute marijuana and conspiracy to defraud the United States by defeating and obstructing the functions of the Internal Revenue Service. In 1995 Smith went to trial on the drug related charges only and was acquitted. He then filed a motion to dismiss the tax related charge and it was denied. Smith took an interlocutory appeal that was likewise denied. Finally on February 14, 1997, following a jury trial, Smith was convicted on the remaining count. He took a

direct appeal. The First Circuit affirmed his conviction on June 10, 1998. United States v. Smith, 145 F.3d 458 (1st Cir. 1998).

On October 14, 1999, Smith filed his first motion to vacate pursuant to 28 U.S.C. § 2255. (Docket No. 698.) He supplemented that motion with additional petitions. (See Docket Nos. 704 and 711.) The petitions were considered in a unified manner by the magistrate judge who issued a recommended decision denying collateral relief. (Docket No. 721). The decision was affirmed by the District Court on May 15, 2000. (Docket No. 723). Another appeal ensued.¹

While that appeal was still pending, Smith filed the current motion on June 26, 2000. (Docket No. 730.) During July 2000 a brief skirmish developed over a request for an immediate hearing filed by Smith. The issue that Smith was attempting to raise related to the length of time he had already been under supervision; he apparently believed the issue deserved immediate consideration. On September 26, 2000, the District Court entered an order directing that no further action would be taken in regard to the present 28 U.S.C. § 2255 motion until the First Circuit had ruled on Smith's appeal from his first § 2255 petition. (See Docket No. 730, at 11, endorsement.) On November 15, 2000, the Court of Appeals issued an order dismissing Smith's appeal for lack of diligent prosecution. (Docket No. 740). On July 9, 2001, Smith filed his motion seeking reconsideration of the September 26, 2000, order. (Docket No. 749). On November 14, 2001, the trial judge entered an order of recusal from the entire case and the matter was reassigned to another judge.

¹ Smith filed one additional appeal during the spring 1999 when the sentencing court denied his motion for in forma pauperis status. At the time the motion was denied there was nothing else pending in District Court. Around the time the first § 2255 petition was filed, the Court of Appeals affirmed the District Court order. (See Docket No. 699.)

Discussion

In this petition, which he styles as a petition for a writ of error coram nobis, Smith attempts to attack his sentence on the underlying conviction by arguing that the term of supervised release imposed upon him exceeds the statutory maximum of five years. In order to reach that result, Smith argues that the three-year term of supervised release imposed by the court has been augmented by over two years of pretrial supervision while he was on bail pending trial.

The United States' response succinctly and accurately explains why this petition is not cognizable as styled. (See Docket No. 736, at 1 n.1.) The writ of coram nobis is "all but extinct," to use the United States' phrasing and is not an alternative to habeas corpus relief. See Carlisle v. United States, 517 U.S. 416, 429 (1996). Smith is "in custody" pursuant to the terms of his supervised release that is due to terminate on June 1, 2003. Accordingly, 28 U.S.C. § 2255 provides the only avenue for Smith to obtain the sought-after relief from his sentence. United States v. Brown, 117 F.3d 471, 475 (11th Cir. 1997) (holding with respect to a person serving a supervised release term that the available statutory habeas remedy precluded coram nobis relief).

If I were to construe this pleading as a 28 U.S.C. § 2255, the record clearly shows that Smith's instant petition is a second and successive petition. His first petition, which was a collateral attack on the exact same judgment and sentence, was fully considered and denied. The arguments that Smith attempts to raise now could have been raised in the first petition. As noted above, § 2255 exists to address situations such as this one where it is alleged that the sentence imposed exceeds the statutory maximum. See 28 U.S.C. § 2255 (providing remedies for defendant's claims "that the sentence was in

excess of the maximum authorized by law”). This being Smith’s second attempt to get relief from his sentence, the only avenue of relief available to Smith is that found under 28 U.S.C. § 2255 ¶ 8, that provides that a “second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals.” Smith has not obtained this certification and, therefore, his petition is subject to dismissal by this court. United States v. Barrett, 178 F.3d 34, 57 (1st Cir. 1999).

With respect to his motion for reconsideration of the September 26, 2000, endorsed order, that matter became moot on November 15, 2000, when the First Circuit issued its order dismissing Smith’s appeal of his first § 2255 motion.

Conclusion

Based upon the foregoing, I recommend that the court **DISMISS** Smith’s motion/petition for writ of coram nobis (Docket No. 730) and **DENY** Smith’s motion for reconsideration of the court’s endorsement made on September 26, 2000. (Docket No. 749.)

NOTICE

A party may file objections to those specified portions of a magistrate judge’s report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) (1993) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court’s order.

November 26, 2001.

Margaret J. Kravchuk
U.S. Magistrate Judge

CJACNS CLOSED

U.S. District Court

District of Maine (Portland)

CRIMINAL DOCKET FOR CASE #: 94-CR-34-ALL

USA v. DETHLEFS, et al

Filed: 07/20/94

Dkt# in other court: None

Case Assigned to: Judge GEORGE Z. SINGAL

JANICE RECORD (0) DAVID DUBORD

Interested Party [term 11/04/96]

[term 11/04/96] [COR LD NTC]

86 LISBON STREET, PO BOX 7860, LEWISTON, ME 04240 783-5261

Pending Counts: NONE

Terminated Counts: NONE

Complaints: NONE

ELTON RECORD (0) DAVID DUBORD

Interested Party [term 11/04/96]

[term 11/04/96] (See above)

Pending Counts: NONE

Terminated Counts: NONE

Complaints: NONE

MARK D STERN (0) GEORGE GARFINKLE, ESQ.

Interested Party [COR LD NTC] 99 POND AVENUE, BROOKLINE, MA 02146

617/734-4904

Pending Counts: NONE

Terminated Counts: NONE

Complaints: NONE

TOWN OF MANSFIELD ROBERT S. MANGIARATTI, ESQ.

MASSACHUSETTS (0) [COR LD NTC]

Interested Party VOLTERRA, GOLDBERG, MANGIARATTI & JACOBS

THREE MILL STREET, ATTLEBORO, MA 02703 508/222-1463

Pending Counts: NONE
Terminated Counts: NONE
Complaints: NONE

TOWN OF GREENWOOD MAINE (0) TOWN OF GREENWOOD MAINE
Interested Party [COR LD NTC] [PRO SE]
[term 11/04/96] c/o/ Elizabeth Lavalette
P.O. Box 180, Locke Mills, ME 04255 207-875-2773

Pending Counts: NONE
Terminated Counts: NONE
Complaints: NONE

HARRISON, TOWN OF (0) Interested Party
Pending Counts: NONE
Terminated Counts: NONE
Complaints: NONE

GARY T DETHLEFS (1) NEAL K. STILLMAN
defendant [term 11/04/96]
[term 09/30/96] 773-8169
[COR LD NTC ret]
97A EXCHANGE STREET, PORTLAND, ME 04101, 207-773-8169

RICHARD M. EGBERT
[term 11/04/96]
617-737-8222
[COR LD NTC ret]
99 SUMMER STREET, BOSTON, MA 02110-1200

MARYELLEN KELLEHER, ESQ.
[term 11/04/96]
[COR LD NTC cja]
99 SUMMER ST., BOSTON, MA 02110 617-737-8222

GARY T DETHLEFS
[COR LD NTC] [PRO SE]
REG. NO. 20177-038

FCI RAY BROOK, P.O. BOX 9008, RAY BROOK, NY 12977

Pending Counts: Disposition

21:841 NARCOTICS -SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to possess with intent to distribute in excess of 1,000 Kilograms of Marijuana: 175 months imprisonment on Count 1 and 60 months on Count 3, all terms to run concurrently, 5 years of supervised release on Counts 1 and 3 to be served concurrently; \$100.00 special assessment, AMENDED JUDGMENT: Defendant sentenced to imprisonment for a term of 210 months of count 1 and 60 months on count 3, such terms to run concurrently; Defendant remanded to custody of USMS; Supervised release of 5 years on Count 1s and 3 years on Count 3s, such terms to run concurrently; Special Assessment of \$100.00 but the Court notes that the special assessment has been paid by Defendant; Fines Waived. Forfeiture ordered - see Judgment. (1s)

21:853 CRIMINAL FORFEITURE (2s) 175 months imprisonment on Count 1 and 60 months on Count 3, all terms to run concurrently, 5 years supervised release on Counts 1 and 3 to be served concurrently; \$100.00 special assessment; AMENDED JUDGMENT: Defendant sentenced to imprisonment for a term of 210 months of count 1 and 60 months on count 3, such terms to run concurrently; Defendant remanded to custody of USMS; Supervised release of 5 years on Count 1s and 3 years on Count 3s, such terms to run concurrently; Special Assessment of \$100.00 but the Court notes that the special assessment has been paid by Defendant; Fines Waived. Forfeiture ordered - see Judgment. (2s)

18:371 TAFT HARTLEY ACT: Conspiracy to defraud the United States by defeating and obstructing the functions of the Internal Revenue Services (3s): 175 months imprisonment on Count 1 and 60 months on Count 3, all terms to run concurrently, 5 years supervised release on Counts 1 and 3 to be served concurrently; \$100.00 special assessment; AMENDED JUDGMENT: Defendant sentenced to imprisonment for a term of 210 months of count 1 and 60 months on count 3, such terms to run concurrently; Defendant remanded to custody of USMS; Supervised release of 5 years on Count 1s and 3 years on Count 3s, such terms to run concurrently; Special Assessment of \$100.00 but the Court notes that the special assessment has been paid by Defendant; Fines Waived. Forfeiture ordered - see Judgment. (3s)

Offense Level (opening): 4

Terminated Counts: Disposition

21:841 NARCOTICS -SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to Distribute and to Possess with Intent to Distribute Marijuana (1)

21:853 CRIMINAL FORFEITURE (2)

Offense Level (disposition): 4

Complaints: NONE

THOMAS BAKER (2) BRUCE M. MERRILL, ESQ.
defendant [term 04/03/96]
[term 04/03/96] [COR NTC ret]

225 COMMERCIAL STREET, SUITE 401, PORTLAND, ME 04101
775-3333

BRYAN M. BEATTY, ESQ. [term 04/03/96] [COR LD NTC ret]
101 NO. MAIN ST., MANSFIELD, MA 02048 508-339-4600

WILLIAM A. DIMITRI, ESQ., [term 04/03/96] [COR LD NTC ret]
528 NO. MAIN ST., PROVIDENCE, RI 02907 401-273-9092

Pending Counts: Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to possess with intent to distribute in excess of 1,000 kilograms of marijuana (1) : 36 months imprisonment w/credit for time served in presentence detention, dft to self report 4/26/96 at 2pm; 3 yrs. supervised release, \$50.00 special assessment (1)

Offense Level (opening): 4

Terminated Counts: NONE

Complaints: NONE

IRVIN R MORRIS (3) WILLIAM B. COTE, ESQ.
defendant [term 08/22/95]
[term 04/25/97] [COR LD NTC ret]

LASKOFF & ASSOCIATES, P.O. BOX 7206, LEWISTON, ME 04243-7206
786-3173

WILLIAM MASELLI, ESQ., [term 04/25/97], [COR LD NTC cja]
LAW OFFICE OF WILLIAM MASELLI, 98 COURT STREET
AUBURN, ME 04210, (207) 783-4800

LEONARD I. SHARON [term 08/22/95] [COR ret]
SHARON, LEARY & DETROY, 90 MAIN STREET
P.O. BOX 3130, AUBURN, ME 04212-3130
(207) 782-3275

Pending Counts: Disposition

18:371 TAFT HARTLEY ACT: Conspiracy to defraud the United States by defeating and obstructing the functions of the Internal Revenue Service (3s) : 12 months and 1 day of imprisonment, 2 years supervised release and a \$100 special assessment (3s)

Offense Level (opening): 3

Terminated Counts:

Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to Distribute and to Possess with Intent to Distribute Marijuana(1)

21:841 NARCOTICS-SELL,DISTRIBUTE, OR DISPENSE:Conspiracy to possess with intent to distribute in excess of 1,000 Kilograms of Marijuana (1s)

21:853 CRIMINAL FORFEITURE (2)

21:853 CRIMINAL FORFEITURE (2s): Dismissed on Government's Motion to Dismiss

Offense Level (disposition): 4

Complaints: NONE

PETER C PICCIANDRA (4) ROBERT N. LAUNIE, ESQ.

defendant [term 09/30/96]

[term 09/30/96] [COR LD NTC ret]

LAUNIE & HOWARD, 138 NEWBURY STREET
#4-71, BOSTON, MA 02116-2904 617-720-0094

JOSEPH L. GOODMAN, ESQ. [term 09/30/96] [COR LD NTC ret]
482 CONGRESS STREET, PO BOX 7523
PORTLAND, ME 04101 207-775-4335

KEITH J. NICHOLSON, ESQ. [COR]
138 NEWBURY STREET, SUITE 4
BOSTON, MA 02116 617/236-6991

Pending Counts: Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to possess with intent to distribute in excess of 1,000 Kilograms of Marijuana (1s) : 72 mos. imprisonment on Count 1s & 60 mos. on Count 3s (concurrent); credit for time served, remanded forthwith to USMS; 4 years supervised release (concurrent), \$100 special assessment; AMENDED JUDGMENT:

Defendant sentenced to a term of imprisonment of 84 months on Count 1s and 60 months on Count 3s, said terms to run concurrently. Defendant shall not pay costs of incarceration.

Defendant remanded to the custody of the USMS. Supervised release of 4 years on count 1s and 3 years on count 3s, such terms to run concurrently. Special Assessment of \$100.00

however, the Court notes that the Defendant has paid the special assessment. Fines waived.
Forfeiture ordered in accordance with the Preliminary Order of Forfeiture dated 9/25/96. (1s)
21:853 CRIMINAL FORFEITURE Dismissed on Government Motion (2s)

18:371 TAFT HARTLEY ACT: Conspiracy to defraud the United States by defeating and obstructing the functions of the Internal Revenue Service (3s) : 72 mos. imprisonment on Count 1s & 60 mos. on Count 3s (concurrent); credit for time served, remanded forthwith to USMS; 4 years supervised release (concurrent), \$100 special assessment; AMENDED JUDGMENT: Defendant sentenced to a term of imprisonment of 84 months on Count 1s and 60 months on Count 3s, said terms to run concurrently. Defendant shall not pay costs of incarceration. Defendant remanded to the custody of the USMS. Supervised release of 4 years on count 1s and 3 years on count 3s, such terms to run concurrently. Special Assessment of \$100.00 however, the Court notes that the Defendant has paid the special assessment. Fines waived. Forfeiture ordered in accordance with the Preliminary Order of Forfeiture dated 9/25/96. (3s)
Offense Level (opening): 4

Terminated Counts: Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to Distribute and to Possess with Intent to Distribute Marijuana (1)

21:853 CRIMINAL FORFEITURE(2)

Offense Level (disposition): 4

Complaints: NONE

RICHARD A RECORD (5) PETER J. DETROY, III

defendant 774-7000

[term 09/30/96] [COR LD NTC ret]

NORMAN, HANSON & DETROY, 415 CONGRESS STREET
P. O. BOX 4600 DTS, PORTLAND, ME 04112 774-7000

JOSEPH J. BALLIRO, SR., ESQ. [term 09/30/96] [COR LD NTC ret]

BALLIRO, MONDANO & BALLIRO, 3 ARLINGTON ST.

BOSTON, MA 02116, 617-227-5822

ROBERT M. NEAULT, ESQ. [term 09/01/94] [COR LD NTC ret]

RICHARD H. THOMPSON, ESQ. [term 09/30/96] [COR LD NTC ret]

THOMPSON & PEABODY, P. O. BOX 870

NAPLES, ME 04055 693-3030

Pending Counts: Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to possess with intent to distribute in excess of 1,000 kilograms of marijuana (1s) : 60 mos. on Count 1s & 3s to be served concurrently (Count 2s is forfeiture) w/ credit for time served; remanded to USMS; 4 years supervised release(1s)(concurrent); \$100 special assessment; AMENDED JUDGMENT: Defendant sentenced to a term of 48 months on count 1s and 48 months on count 3s, such terms to run concurrently. Cost of incarceration is waived. Defendant remanded forthwith to the custody of the USMS; Supervised Release of 4 years on Count 1s and 3 years on Count 3S, such terms to run concurrently. Special Assessment of \$100.00 the Court noting that Defendant has paid the special assessment, fines waived. (1s)

21:853 CRIMINAL FORFEITURE (2s): 60 mos. on Count 1s & 3s to be served concurrently (Count 2s is forfeiture) w/ credit for time served; remanded forthwith to USMS; 4 years supervised release (concurrent); \$100 special assessment; AMENDED JUDGMENT: Defendant sentenced to a term of 48 months on count 1s and 48 months on count 3s, such terms to run concurrently. Cost of incarceration is waived. Defendant remanded forthwith to the custody of the USMS; Supervised Release of 4 years on Count 1s and 3 years on Count 3S, such terms to run concurrently. Special Assessment of \$100.00 the Court noting that Defendant has paid the special assessment, fines waived. (2s)

18:371 TAFT HARTLEY ACT: Conspiracy to defraud the United States by defeating and obstructing the functions of the Internal Revenue Service(3s): 60 mos. on Count 1s & 3s to be served concurrently (Count 2s is forfeiture) w/ credit for time served; remanded forthwith to USMS; 4 years supervised release; \$100 special assessment; AMENDED JUDGMENT: Defendant sentenced to a term of 48 months on count 1s and 48 months on count 3s, such terms to run concurrently. Cost of incarceration is waived. Defendant remanded forthwith to the custody of the USMS; Supervised Release of 4 years on Count 1s and 3 years on Count 3S, such terms to run concurrently. Special Assessment of \$100.00 the Court noting that Defendant has paid the special assessment, fines waived. (3s)

Offense Level (opening): 4

Terminated Counts: Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to Distribute and to Possess with Intent to Distribute Marijuana (1):

21:853 CRIMINAL FORFEITURE (2)

Offense Level (disposition): 4

Complaints: NONE

STUART L SMITH (6)

defendant

[term 07/21/97]

CLARKE C. HAMBLEY, ESQ.

[term 11/04/96]

[COR ret]

ELIZABETH J. SCHEFFEE, ESQ. [term 07/26/95] [COR LD NTC ret]
GIVERTZ, LUNT, HAMBLEY & SCHEFFEE
10 MOULTON STREET, P.O. BOX 4801
PORTLAND, ME 04112 207-772-8373

SEAN T. DELANEY, ESQ. [term 01/11/95] [COR LD NTC ret]
STEVEN J. RAPPAPORT, ESQ. [term 07/26/95] [COR LD NTC ret]
RAPPAPORT, FREEMAN & PINTA, 171 MILK STREET
SUITE 400, BOSTON, MA 02109 617-542-7150

KENNETH GORDON [term 11/04/96] [COR ret]
PERKINS, SMITH & COHEN, ONE BEACON STREET
BOSTON, MA 02108 617/426-8900

WILLIAM F. SULLIVAN, ESQ. [term 07/21/97] [COR LD NTC ret]
SULLIVAN & LARGEY, 277 NEWPORT AVE
QUINCY, MA 02170, 617/328-6900

THEODORE A. BARONE, ESQ. [term 07/21/97] [COR LD NTC ret]
SULLIVAN, LARGEY & BARONE, 159 BURGIN PARKWAY
SUITE 302, QUINCY, MA 02169 617-328-0411

STUART L SMITH [COR LD NTC] [PRO SE]
32 Pinecrest Drive, Tannton, MA 02780 508-725-8388

Pending Counts: NONE

Terminated Counts: Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to Distribute and
to Possess with Intent to Distribute Marijuana(1)

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to possess with
intent to distribute in excess of 1,000 Kilograms of Marijuana (1s)

21:853 CRIMINAL FORFEITURE (2)

21:853 CRIMINAL FORFEITURE (2s)

18:371 TAFT HARTLEY ACT: Conspiracy to defraud the United States by defeating and obstructing the functions of the Internal Revenue Service: Imprisonment of 60 months, Defendant remanded, 3 years supervised release, \$100 special assessment (3s)

Offense Level (disposition): 4

Complaints: NONE

THOMAS K STONE (7)

BRUCE B. HOCHMAN

defendant

[term 09/26/96]

[term 09/26/96]

871-7033

[COR LD NTC cja]

LAMBERT, COFFIN, RUDMAN & HOCHMAN

P.O. BOX 15215, 477 CONGRESS STREET-14TH FLOOR

PORTLAND, ME 04112-5215 (207) 871-7033

Pending Counts:

Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to possess with intent to distribute in excess of 1,000 kilograms of marijuana (1s) : 60 months of imprisonment on each of counts 1 and 3 to be served concurrently, 5 years supervised release and \$100.00 special assessment; AMENDED JUDGMENT: Defendant sentenced to a term of imprisonment of 87 months on Count 1s and 60 months on count 3s, such terms to run concurrently. Costs of incarceration waived. Defendant remanded to the custody of the USMS. Supervised Release of 5 years. Special Assessment of \$100.00 the Court notes that the assessment has been paid, fines waived. (1s)

18:371 TAFT HARTLEY ACT: Conspiracy to defraud the United States by defeating and obstructing the functions of the Internal Revenue Service (3s): 60 months of imprisonment on each of counts 1 and 3 to be served concurrently, 5 years supervised release and \$100.00 special assessment; AMENDED JUDGMENT: Defendant sentenced to a term of imprisonment of 87 months on Count 1s and 60 months on count 3s, such terms to run concurrently. Costs of incarceration waived. Defendant remanded to the custody of the USMS. Supervised Release of 5 years. Special Assessment of \$100.00 the Court notes that the assessment has been paid, fines waived. (3s)

Offense Level (opening): 4

Terminated Counts:

Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to Distribute and to Possess with Intent to Distribute Marijuana (1)

Offense Level (disposition): 4

Complaints: NONE

DAVID C WHITE (8)

defendant

[term 09/26/96]

JOHN A. CIRALDO

[term 09/26/96]

774-2635

[COR LD NTC cja]

PERKINS, THOMPSON, HINCKLEY & KEDDY

ONE CANAL PLAZA, P. O. BOX 426 DTS

PORTLAND, ME 04112

774-2635

Pending Counts:

Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to possess with intent to distribute in excess of 1,000 kilograms of marijuana (1): 60 months of imprisonment on counts 1 and 3 to be served concurrently; 5 years supervised release and \$100.00 special assessment; AMENDED JUDGMENT: Defendant sentenced to a term of imprisonment of 87 months on count 1s and 60 months on count 3s, such terms to be served concurrently with each other. Defendant remanded to the custody of the USMS. Defendant shall not pay costs of incarceration. Sentenced to 5 years of supervised release. Special Assessment of \$100.00 however the Court notes that Defendant has paid the special assessment. (1)

18:371 TAFT HARTLEY ACT: Conspiracy to defraud the United States by defeating and obstructing the functions of the Internal Revenue Service (3): 60 months of imprisonment on counts 1 and 3 to be served concurrently; 5 years supervised release and \$100.00 special assessment; AMENDED JUDGMENT: Defendant sentenced to a term of imprisonment of 87 months on count 1s and 60 months on count 3s, such terms to be served concurrently with each other. Defendant remanded to the custody of the USMS. Defendant shall not pay costs of incarceration. Sentenced to 5 years of supervised release. Special Assessment of \$100.00 however the Court notes that Defendant has paid the special assessment. (3)

Offense Level (opening): 4

Terminated Counts:

Disposition

21:853 CRIMINAL FORFEITURE (2): 60 months of imprisonment on counts 1 and 3 to be served concurrently; 5 years supervised release and \$100.00 special assessment; AMENDED JUDGMENT: Defendant sentenced to a term of imprisonment of 87 months on count 1s and 60 months on count 3s, such terms to be served concurrently with each other. Defendant remanded to the custody of the USMS. Defendant shall not pay costs of incarceration. Sentenced to 5 years of supervised release. Special Assessment of \$100.00 however the Court notes that Defendant has paid the special assessment. (2)

Offense Level (disposition): 1

Complaints: NONE

REBECCA B WHITE (9) DAVID R. BENEMAN

defendant

[term 10/25/96]

[term 10/24/96]

775-5200

[COR LD NTC ret]

LEVENSON, VICKERSON & BENEMAN

P. O. BOX 465, PORTLAND, ME 04112 775-5200

BRIAN C. HAWKINS, ESQ. [term 10/03/94] [COR LD NTC ret]

HAWKINS & BOISVERT, ROOSEVELT TRAIL PROFESSIONALS

BLDG., P.O. BOX 479, BRIDGTON, ME 04009 647-2659

MARYELLEN KELLEHER, ESQ. [term 10/03/94] [COR LD NTC ret]

99 SUMMER ST., BOSTON, MA 02110 617-737-8222

STEPHEN J. SCHWARTZ, ESQ. [term 10/25/96] [COR LD NTC ret]

SCHWARTZ & SCHWARTZ, P.O. BOX 15337

482 CONGRESS ST., PORTLAND, ME 04101 774-6111

Pending Counts: NONE

Terminated Counts: Disposition

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to Distribute and to Possess with Intent to Distribute Marijuana (1)

21:841 NARCOTICS-SELL, DISTRIBUTE, OR DISPENSE: Conspiracy to possess with intent to distribute in excess of 1,000 kilograms of marijuana (1s): 120 months of imprisonment on count 1S and a term of 60 months on Count 3S, both terms to run concurrently, 5 years supervised release and \$100.00 special assessment

21:853 CRIMINAL FORFEITURE (2)

21:853 CRIMINAL FORFEITURE (2s): 120 months of imprisonment on count 1S and a term of 60 months on Count 3S, both terms to run concurrently, 5 years supervised release and \$100.00 special assessment (2s)

18:371 TAFT HARTLEY ACT: Conspiracy to defraud the United States by defeating and obstructing the functions of the Internal Revenue Service (3s): 120 months of imprisonment on count 1S and a term of 60 months on Count 3S, both terms to run concurrently, 5 years supervised release and \$100.00 special assessment

Offense Level (disposition): 4

Complaints: NONE

CRAIG A CIECHANOWSKI (559) , CRAIG A CIECHANOWSKI, ESQ

ESQ [term 03/06/97]

Interested Party [COR LD NTC]

[term 03/06/97] Gimore, Rees & Carlson, 20 Walnut Street
Wellesley Hills, MA 02181 617-431-9788

Pending Counts: NONE

Terminated Counts: NONE

Complaints: NONE

U. S. Attorneys: F. MARK TERISON 780-3257 [COR LD NTC]

GEORGE T. DILWORTH, AUSA [term 04/27/95] [COR]

JONATHAN A. TOOF 780-3257 [COR LD NTC]

OFFICE OF THE U.S. ATTORNEY

P.O. BOX 9718, PORTLAND, ME 04104-5018 (207) 780-3257

JAMES W. CHAPMAN, JR., ESQ. [COR LD NTC]

U.S. DEPARTMENT OF JUSTICE

NORTHERN CRIMINAL ENFORCEMENT SECTION

P.O. BOX 972, BEN FRANKLIN STATION

WASHINGTON, DC 20044 202-514-5150