

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 99-CR-4-P-C
)	
GEOFFREY M. RUDAW,)	
)	
Defendant)	

**RECOMMENDED DECISION ON MOTION FOR
COLLATERAL RELIEF PURSUANT TO 28 U.S.C. § 2255**

Geoffrey M. Rudaw is currently serving a 60-month sentence at the Allenwood Federal Prison Camp in Montgomery, Pennsylvania. This Court imposed that sentence on April 24, 2000, based upon Rudaw’s plea of guilty to the charge of conspiracy to distribute marijuana and to possess the drug with the intent to distribute; a stipulation to a drug quantity in the range of 700 to 1000 kilograms of marijuana; and certain government concessions concerning additional sentencing factors. Rudaw seeks to have his sentence vacated, set aside, or corrected based on contentions that his sentence was the product of a factually inaccurate calculation of drug quantity contained in a presentence report; that the sentence imposed violates Apprendi v. New Jersey, 530 U.S. 466 (2000); that the judgment of conviction contains a clerical error that mistakenly requires him to refrain from use or possession of intoxicants, including alcohol; and that his retained counsel provided him with ineffective assistance. Having reviewed each of the grounds asserted in Rudaw’s motion, supporting memorandum, and reply to the government’s response, I am satisfied that Rudaw is not entitled to any relief and, therefore, recommend that the motion be **DENIED**.

BACKGROUND

On January 28, 1999, Rudaw was charged on a superceding indictment for, *inter alia*, conspiracy to distribute marijuana and to possess marijuana with the intent to distribute, in violation of 21 U.S.C. § 841(a)(1). According to the government's investigation, Rudaw had been involved in a drug smuggling and distribution conspiracy involving at least nine other co-defendants who transported significant quantities of marijuana and other drugs across the Canadian border into the United States and distributed the same at various concerts and cultural events in the United States. Although he initially pleaded not guilty, Rudaw eventually entered into a written plea agreement with the government and entered a plea of guilty on July 26, 1999. (Docket No. 72.) The plea agreement did not impose any restriction on the government's ability to recommend any lawful sentence. (Id.)

The Court held a presentence conference with counsel on December 8, 1999. The primary issue in contention at that juncture was a finding in the presentence report that a co-defendant had possessed during the conspiracy a "one-foot high stack of LSD-laced blotter paper" containing approximately 300,000 dosage units, the equivalent of 12,000 kilograms of marijuana, itself enough to place Rudaw at a Base Offense Level of 36. (Revised Presentence Investigative Report at ¶ 21; Dec. 8, 1999 Presentence Conference Tr., Docket No. 109, at 6-7.) The court indicated at the conclusion of the December 8 hearing that the parties should get together and attempt to resolve a pending motion for downward departure from those 300,000 dosage units and to ensure that the government felt comfortable that Rudaw had "come clean" with all of his criminal acts. (Dec. 8, 1999 Presentence Conference Tr. at 12.)

At the subsequent conference on February 29, 2000, the government indicated that it had agreed to reduce the total drug quantity by the alleged 300,000 LSD doses, which, according to

the presentence report, still left 2,342 kilograms of marijuana, or a base offense level of 32. (Feb. 29, 2000 Chambers Conference Tr., Docket No. 121, at 2-4.) The government also indicated it would agree to a total of five level reductions for safety valve and acceptance of responsibility and a 70-month sentence, the bottom of the level 27 range, provided that Rudaw forego a hearing on drug quantity. (Id. at 7.) Rudaw's counsel consulted with Rudaw, and Rudaw indicated that he was unwilling to agree to a 70-month sentence. (Id. at 8.) According to his current motion, his disagreement was based on what he perceived to be additional errors in the presentence report's calculation of drug quantities. The Court indicated it would schedule the drug quantity issue for hearing. (Id.)

On April 24, 2000, the Court conducted a final chambers conference and sentencing proceeding. (April 24, 2000 Chambers Conference Tr., Docket No. 138.) As of that date, the Court had received correspondence from Rudaw's counsel that an agreement had been reached regarding drug quantity and the appropriate sentencing level. (Id. at 1-2.) The government and Rudaw agreed to a base level of 30, resulting in a level 25 sentence after adjustments, which the government continued to agree to. This calculation reflected Rudaw's agreement to stipulate to a drug quantity of between 700 and 1000 kilograms of marijuana. (Id. at 2-3.) The parties agreed to let the Court choose an appropriate sentence within that range (57-71 months). (Id. at 2.)

At the ensuing sentencing hearing, the Court inquired of Rudaw whether he fully understood the contents of the presentence report and whether he was comfortable with and agreed to the withdrawal of his prior objections to the presentence report. (Id. at 13-16.) Rudaw indicated that he understood and that his counsel had withdrawn his objections with his authorization. (Id. at 15.) At the conclusion of the hearing, the Court sentenced Rudaw to 60 months in prison. (Docket No. 132.) In addition, the Court imposed a three-year term of

supervised release. Part of that sentence included the following “stay dry” provision:

“Defendant shall fully abstain from use or possession of all contraband substances and intoxicants during the period of his Supervised Release” (Id. at 5.)

Rudaw did not appeal his conviction and sentence.

DISCUSSION

Pursuant to 28 U.S.C. § 2255, a prisoner may move “to vacate, set aside or correct [his] sentence” if it “was imposed in violation of the Constitution or laws of the United States, or . . . the court was without jurisdiction to impose such sentence, or . . . the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack.”

While the statutory language is rather general, the Supreme Court has narrowly confined the scope and availability of collateral attack for claims that do not allege constitutional or jurisdictional errors. Such claims are properly brought under § 2255 only if the claimed error is “a fundamental defect which inherently results in a complete miscarriage of justice” or “an omission inconsistent with the rudimentary demands of fair procedure.”

Knight v. United States, 37 F.3d 769, 772 (1st Cir. 1994) (quoting Hill v. United States, 368 U.S. 424, 428 (1962)). In other words, § 2255 “is not a surrogate for a direct appeal.” David v. United States, 134 F.3d 470, 474 (1st Cir. 1998). Even if the claims are the proper subject of a § 2255 motion, failure to raise them either at trial or on direct appeal bars a collateral attack unless the movant can demonstrate “cause” excusing the default and “actual prejudice.” United States v. Frady, 456 U.S. 152, 167-68 (1982); Knight, 37 F.3d at 774. If a motion fails to raise an issue cognizable under § 2255 or if the movant fails to make an adequate representation concerning cause and prejudice, a court may, in its discretion, deny the motion without conducting an evidentiary hearing. R. Governing Sec. 2255 Proceedings 4(b); see also Barrett v. United States, 965 F.2d 1184, 1186 (1st Cir. 1992).

1. Factual finding concerning drug quantity

Rudaw complains that the final presentence report contains erroneous figures concerning drug quantities and weights because of double counting and calculation errors. The record clearly reflects that the issue of drug quantity was one of the most contentious issues involved in plea negotiations. The problem with Rudaw's argument, of course, is that the Court did not rely on the presentence report's drug calculations when sentencing Rudaw, but on Rudaw's own stipulation to drug quantity. It was not erroneous for the Court to accept a figure that the parties mutually arrived at. Furthermore, even if some error could be attributed to the Court, this allegation would concern only "ordinary errors that could and should have been raised . . . on direct appeal." Knight, 37 F.3d at 773. The fact that the Court determined drug weight according to Rudaw's stipulation did not give rise to a fundamental defect resulting in a complete miscarriage of justice. Hence, it is not the sort of "exceptional circumstance" that warrants habeas corpus relief.

2. Apprendi v. New Jersey

In Apprendi the Supreme Court considered the question of "whether the Due Process Clause . . . requires that a factual determination authorizing an increase in the maximum prison sentence for an offense from 10 to 20 years be made by a jury on the basis of proof beyond a reasonable doubt." 530 U.S. at 469. The Court held, "Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be [charged in the indictment,] submitted to a jury, and proved beyond a reasonable doubt." Id. at 476, 490; see also Jones v. United States, 526 U.S. 227, 243 n.6 (1999). However,

It is now settled in this and other circuits that even though an indictment is silent as to drug amount and the jury is not asked to make a specific drug-quantity determination, no Apprendi violation occurs as long as the defendant receives a

sentence [that does not exceed] the default statutory maximum applicable to the kind of drugs at issue.

United States v. Duarte, 246 U.S. 56, 60 (1st Cir. 2001) (citing United States v. Robinson, 241 F.3d 115, 119 (1st Cir. 2001)(collecting cases)).

Rudaw contends that his conviction and sentence are unlawful because the Court's finding concerning the specific drug weight was wrong. He relies on Apprendi as authority. Apprendi provides no relief to Rudaw for two reasons. First, Apprendi is inapplicable because the Court based its sentence solely on the drug quantity that Rudaw knowingly and voluntarily stipulated to as part of his plea agreement. See, e.g., United States v. Harper, 246 F.3d 520, 530-31 (6th Cir. 2001). Second, even if there had been no stipulation as to drug quantity and the Court had independently found the weight to be within the 700 to 1000 kilogram range, Rudaw's 60-month sentence does not exceed the default statutory maximum sentence for an unspecified quantity of marijuana. See 21 U.S.C. § 841(b)(1)(D) (setting maximum sentence at 5 years for cases involving "less than 50 kilograms of marihuana").¹ Because Rudaw's sentence equals but does not exceed the default statutory maximum for an unspecified quantity or weight of marijuana, his sentence does not violate the Due Process Clause.

3. "Stay dry" provision

Rudaw complains that the judgment of conviction mistakenly states that he must not use or possess alcohol during his term of supervised release. He accurately quotes the Court as stating, during a sentencing conference, "I intend to impose the following terms and conditions: that he will not commit any further crime [and] that he abstain from the use of all contraband substances" (Rudaw's Mem. of Law, attach. Docket no. 153, at 17.) Rudaw argues that the

¹ Elsewhere in his memorandum of law, Rudaw contends that the proper weight of marijuana to be attributed to him was "approximately 548.5 kilograms." (Rudaw's Mem. of Law at 17.) This weight of marijuana would expose him to a sentence ranging between 5 and 40 years. 21 U.S.C. § 841(a)(1)(B)(vii).

Court mistakenly included “all intoxicants” in the judgment of conviction, when its intent was to prohibit only Rudaw’s use and possession of contraband substances. (Id.) Rudaw contends that there is no evidence of alcohol abuse in the record and that this requirement will prevent him from pursuing his profession as a chef and a sommelier upon his release. This claim, like the first claim, fails because it is not the proper subject of a § 2255 motion. If the Court’s sentence was erroneous at all, the error would involve only an ordinary error that should have been raised on direct appeal, not “a fundamental defect which inherently results in a complete miscarriage of justice.” Hill, 368 U.S. at 428. Nevertheless, if the Court were moved by this appeal, it would have the discretion to modify the prohibition on possession of alcohol.

4. Ineffective assistance of counsel

Claims of ineffective assistance of counsel are properly before the Court pursuant to 28 U.S.C. § 2255 and, although the claims are constitutional in nature, they are not subject to the cause and prejudice standard. Knight, 37 F.3d at 773. Instead, ineffective assistance of counsel claims are subject to the standard set forth in Strickland v. Washington, 466 U.S. 668 (1984). To prevail on this claim, Rudaw must show that his counsel’s performance fell below a standard of objective reasonableness and that, but for that inadequate performance, the outcome of the proceedings would have been different. Id. at 669.

Rudaw argues that his counsel was ineffective because he pressured Rudaw to forego a Fatico hearing² and to stipulate to a drug quantity that exceeded what Rudaw believed he was actually responsible for. Rudaw also complains that his counsel failed to point out a certain miscalculation in the presentence report, including one that computed a “10-pack” of LSD sheets

² See United States v. Fatico, 579 F.2d 707 (2d Cir. 1978). A Fatico hearing is one “at which the prosecution and the defense may introduce evidence relating to the appropriate sentence,” United States v. Lohan, 945 F.2d 1214, 1216 (2d Cir. 1991), as in circumstances where the convicted objects to factual presentations made in a presentence report.

as 10,000 doses (1000 per sheet) rather than 1,000 doses (100 per sheet).³ Rudaw's other ineffective assistance arguments are frivolous and entirely devoid of any prejudice showing.

According to Rudaw, an accurate calculation of drug quantity would have placed him below the 700-kilogram level set by section 2D1.1(c)(5) of the United States Sentencing Guidelines ("U.S.S.G.") (Base Level of 30) and in the 400 kilogram to less than 700 kilogram range of U.S.S.G. § 2D1.1(c)(6) (Base Level 28). Rudaw assumes that the two level reduction this would achieve would necessarily require a sentence reduction in his favor. The two problems with Rudaw's argument, of course, are (1) that he forgets his sentence was entered pursuant to a drug quantity stipulation and not pursuant to the presentence report; and (2) that he assumes the Court would have found the facts concerning drug quantity exactly as he calculates them and that he would have received the three level reduction for acceptance of responsibility, see U.S.S.G. § 3E1.1(a) & (b), the safety valve departure from the mandatory minimum sentence of five years, U.S.S.G. § 5C1.2, and the related two-level reduction, U.S.S.G. § 2D1.1(b)(6).⁴ In fact, the Court applied the safety valve only pursuant to the stipulation of the parties. (Docket No. 131 at 2.) Moreover, there was nothing certain about the Court's finding regarding acceptance of responsibility that would have prevented it from withholding this three-level reduction. Without these reductions, a level 28 sentence (assuming the court would have found drug quantity exactly in accordance with Rudaw's calculation) would have exposed him to a sentence range of 78 to 97 months, considerably longer than the 60-month sentence he received. Even with the three-level acceptance of responsibility reduction, Rudaw would have fallen within the same level 25 category that he was actually sentenced under. In my view, Rudaw's

³ This concern appears to be justified. Elsewhere in the presentence report, a sheet of LSD is treated as containing 100 doses.

⁴ The record also establishes that the government declined to press for a sentence enhancement pursuant to U.S.S.G. § 3B1.1 for an aggravating role in criminal activity involving numerous participants. (Apr. 24, 2000 Chambers Conference at 3.)

counsel did not perform below an objectively reasonable level of competency when he secured significant concessions from the Government (totaling five level reductions) in exchange for stipulating to a base offense level of 30 and foregoing a Fatico hearing.

CONCLUSION

Based upon the foregoing, I recommend that Rudaw's motion be **DENIED** without an evidentiary hearing.

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) for which de novo review by the district court is sought, together with a supporting memorandum, within ten days of being served with a copy thereof. A responsive memorandum shall be filed within ten 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.

Dated: July 31, 2001

Margaret J. Kravchuk
U.S. Magistrate Judge

CJACNS BANGOR

U.S. District Court

District of Maine (Portland)

CRIMINAL DOCKET FOR CASE #: 99-CR-4-ALL

USA v. SHIMEK, et al

Filed: 01/28/99

Dkt# in other court: None

Case Assigned to: JUDGE GENE CARTER

ROBERT M SHIMEK (1)

aka BROTHER BOB

aka BROTHER B

aka B

aka ALEX

defendant

Pending Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2
- conspiracy to distribute and possess with the intent to distribute and aid and abet the distribution of and
possession with intent to distribute marijuana and other controlled substances
(1s)

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 963 and 18:2 - conspiracy to import and aid and
abet the importation of marijuana and other controlled substances into the U.S.
(2s)

21:848.F CONTINUING CRIMINAL ENTERPRISE
(3s)

21:861A.F EMPLOY PERSONS UNDER 18
(4s)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE Possession w/intent to distribute and
aiding and abetting the possession w/intent to distribute marijuana and other controlled substances
(11s)

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 18:2 - importation and aiding and abetting the
importation of marijuana and other controlled substances
(12s)

18:922G.F UNLAWFUL TRANSPORT OF FIREARMS, ETC. 18:922(g) and 924(a)(2) - possession of
a firearm by a fugitive from justice
(14s)

18:922O.F VIOLENT CRIME/DRUGS/MACHINE GUN 18:2 and 922(o) - possession and aiding and
abetting the possession of a machinegun
(18s)

Offense Level (opening): 4

Terminated Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2
- Conspiracy to distribute and possess w/the intent to distribute and aid and abet the distribution of and
possession with intent to distribute marijuana and other controlled substances
(1)

21:960B=MI.F MARIJUANA -IMPORTATION/EXPORTATION 21:951,960 and 963 and 18:2 -
Conspiracy to import and aid and abet the importation of marijuana and other controlled substances
into the U.S.

(2)

21:848.F CONTINUING CRIMINAL ENTERPRISE

(3)

21:861A.F EMPLOY PERSONS UNDER 18

(4)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 -
Possession w/intent to distribute and aiding and abetting the possession w/intent to distribute marijuana
and other controlled substances

(5)

21:952=MI.F MARIJUANA - IMPORT 21:952 and 960 and 18:2 - Importation and aiding and abetting the
importation of marijuana and other controlled substances

(6)

18:922O.F VIOLENT CRIME/DRUGS/MACHINE GUN 18:2 and 922(o) - Possession and aiding and
abetting the possession of a machinegun

(7)

18:922G.F UNLAWFUL TRANSPORT OF FIREARMS, ETC. 18:922(g) - Possession of a machinegun by
a fugitive from justice

(8)

Offense Level (disposition): 4

Complaints:

NONE

DANIEL DESINDES (2)

defendant

[term 12/28/99]

JOHN A. CIRALDO

[term 12/28/99]

774-2635

[COR LD NTC cja]

PERKINS, THOMPSON, HINCKLEY & KEDDY

ONE CANAL PLAZA, P. O. BOX 426 DTS, PORTLAND, ME 04112

774-2635

DANIEL DESINDES

[COR LD NTC pse] [PRO SE]

Reg. No. 03834-036

UNIT 5703, P.O. BOX 2000, FORT DIX, NJ 08640

Pending Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2 - conspiracy to distribute and possess with the intent to distribute and aid and abet the distribution of and possession with intent to distribute marijuana and other controlled substances - Imprisonment: 54 months on each of Counts 1s and 2s, to be served concurrently with each other; Supervised Release: 48 months on each of counts 1s and 2s, to be served concurrently; Special Assessment: \$200; Fine: \$1,000 (1s)

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 963 and 18:2 - conspiracy to import and aid and abet the importation of marijuana and other controlled substances into the U.S. - Imprisonment: 54 months on each of Counts 1s and 2s, to be served concurrently with each other; Supervised Release: 48 months on each of counts 1s and 2s, to be served; Special Assessment: \$200; Fine: \$1,000 (2s)

Offense Level (opening): 4

Terminated Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2 - Conspiracy to distribute and possess w/the intent to distribute and aid and abet the distribution of and possession with intent to distribute marijuana and other controlled substances (1)

21:960B=MI.F MARIJUANA -IMPORTATION/EXPORTATION 21:951, 960 and 963 and 18:2 - Conspiracy to import and aid and abet the importation of marijuana and other controlled substances into the U.S.

(2)

Offense Level (disposition): 4

Complaints:

NONE

DANIEL MAHONEY (3)

aka DANNY MICK

aka MICK MAHONEY

defendant

Pending Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2 - conspiracy to distribute and possess with the intent to distribute and aid and abet the distribution of and possession with intent to distribute marijuana and other controlled substances (1s)

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 963 and 18:2 - conspiracy to import and aid and abet the importation of marijuana and other controlled substances into the U.S.>

(2s)

Offense Level (opening): 4

Terminated Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2 - Conspiracy to distribute and possess w/the intent to distribute and aid and abet the distribution of and possession with intent to distribute marijuana and other controlled substances

(1)

21:960B=MI.F MARIJUANA - IMPORTATION/EXPORTATION 21:951, 960 and 963 and 18:2 -

Conspiracy to import and aid and abet the importation of marijuana and other controlled substances into the U.S.

(2)

Offense Level (disposition): 4

Complaints:

NONE

MICHAEL N SMALLMAN (4)

defendant

Pending Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2 - conspiracy to distribute and possess with the intent to distribute and aid and abet the distribution of and possession with intent to distribute marijuana and other controlled substances

(1s)

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 963 and 18:2 - conspiracy to import and aid and abet the importation of marijuana and other controlled substances into the U.S>

(2s)

Offense Level (opening): 4

Terminated Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2 - Conspiracy to distribute and possess w/the intent to distribute and aid and abet the distribution of and possession with intent to distribute marijuana and other controlled substances

(1)

21:960B=MI.F MARIJUANA -IMPORTATION/EXPORTATION 21:951, 960 and 963 and 18:2 -

Conspiracy to import and aid and abet the importation of marijuana and other controlled substances into the U.S.

(2)

Offense Level (disposition): 4

Complaints:

NONE

RICHARD C BARTLETT (5) RICHARD S. BERNE, ESQ.

defendant [term 10/29/99]

[term 10/29/99] [COR LD NTC ret]

BERNE & LAFOND , 22 FREE ST., SUITE 404, PORTLAND, ME 04101
871-7770

Pending Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2 - conspiracy to distribute and possess w/the intent to distribute and aid and abet the distribution of and possession w/intent to distribute marijuana and other controlled substances - 42 months imprisonment, defendant remanded to custody of USMS, 60 months of supervised release, \$100.00- special assessment

(1)

Offense Level (opening): 4

Terminated Counts: Disposition

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 963 and 18:2 - conspiracy to import and aid and abet the importation of marijuana and other controlled Substances into the U.S. - Oral Order dismissing counts 2, 5-10, 15&16 of the Superseding Indictment, as they pertain to defendant RICHARD BARTLETT

(2)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 - Possession with the intent to distribute and distribution and aiding and abetting the possession with intent to distribute and distribution of marijuana and other controlled substances - Oral Order dismissing Counts 2, 5-10, 15 & 16 of the Superseding Indictment as they pertain to defendant RICHARD BARTLETT

(5)

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 18:2 - importation and aiding and abetting the importation of marijuana and other controlled substances in the U.S. -- Oral Order dismissing Counts 2, 5-10, 15 & 16 of the Superseding Indictment as they pertain to defendant RICHARD BARTLETT

(6)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 - possession with the intent to distribute and distribution and aiding and abetting the possession with intent to distribute and distribution of marijuana and other controlled substances - Oral Order dismissing Counts 2, 5-10, 15 & 16 of the Superseding Indictment as they pertain to defendant RICHARD BARTLETT

(7)

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 18:2 -importation and aiding and abetting the importation of marijuana and other controlled substances in the U.S. - Oral Order dismissing Counts 2, 5-10, 15 & 16 of the Superseding Indictment as they pertain to defendant RICHARD BARTLETT

(8)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 possession w/ intent to distribute and aiding and abetting the possession w/intent to distribute marijuana and other controlled substances - Oral Order dismissing Counts 2, 5-10, 15 & 16 of the Superseding Indictment as they pertain to defendant RICHARD BARTLETT

(9)

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 18:2 - importation and aiding and abetting the importation of marijuana and other controlled substances in the U.S. - Oral Order dismissing Counts 2, 5-10, 15 & 16 of the Superseding Indictment as they pertain to defendant RICHARD BARTLETT

(10)

21:841A=MD.F MARIJUANA - SELL,DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 - possession with the intent to distribute and distribution and aiding and abetting the possession with intent to distribute and distribution of marijuana and other controlled substances - Oral Order dismissing Counts 2, 5-10, 15 & 16 of the Superseding Indictment as they pertain to defendant RICHARD BARTLETT

(15)

18:922O.F VIOLENT CRIME/DRUGS/MACHINE GUN 18:2 and 922(o) - possession and aiding and abetting the possession of a machinegun - Oral Order dismissing Counts 2, 5-10, 15 & 16 of the Superseding Indictment as they pertain to defendant RICHARD BARTLETT

(16)

Offense Level (disposition): 4

Complaints:

NONE

NICOLE YOUNG (6)	WILLIAM MASELLI, ESQ.
aka	[term 01/11/00]
NIKKI	[COR LD NTC cja]
aka	LAW OFFICE OF WILLIAM MASELLI
NICOLE GRAVES	98 COURT STREET
defendant	AUBURN, ME 04210
[term 01/11/00]	(207) 783-4800

Pending Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 AND 18:2 - - conspiracy to disbtribute and possess w/the intent to distribute and aid and abet the distribution of and possession w/intent to distribute marijuana and other controlled substances - 18 Months Imprisonment; 3 Years of Supervised Release; \$100 Special Assessment; Fines Waived;

(1)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 - possession w/the intent to distribute and distribution and aiding and abetting the possession w/intent to distribute and distribution of marijuana and other controlled substances - Counts 2 and 15 dismissed on Oral Motion to dismiss

(15)

Offense Level (opening): 4

Terminated Counts: Disposition

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 963 and 18:2 - conspiracy to import and aid (2) and abet the importation of marijuana and other controlled substances into the U.S. - Counts 2 and 15 dismissed on Oral Motion to dismiss

(2)

Offense Level (disposition): 4

Complaints:

NONE

MATTHEW J LABORDE (7) ANNE H. JORDAN, ESQ.

aka [term 04/05/00]

MATTHEW MESSER [COR LD NTC cja]

defendant NORMAN, HANSON & DETROY

[term 10/11/00] 415 CONGRESS STREET

P. O. BOX 4600 DTS, PORTLAND, ME 04112, 774-7000

DAVID R. BENEMAN

[term 10/11/00]

775-5200

[COR LD NTC cja]

LEVENSON, VICKERSON & BENEMAN

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

Pending Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2 - conspiracy to distribute and possess w/the intent to distribute and aid and abet the distribution of and possession w/intent to distribute marijuana and other controlled substances - 84 months imprisonment, 5 years supervised release, \$100.00 Special Assessment

(1)

Offense Level (opening): 4

Terminated Counts: Disposition

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 963 and 18:2 - conspiracy to import and aid and abet the importation of marijuana and other controlled substances into the U.S. - Count 2 dismissed on oral motion by the Government

(2)

Offense Level (disposition): 4

Complaints:

NONE

GEOFFREY M RUDAW (8) EDMUND R. FOLSOM, ESQ.

aka [term 04/28/00]

JAKE [COR LD NTC ret]

aka BOULOS & GARDNER

JEFF 75 NORTH STREET

defendant PO BOX 856

[term 04/28/00] SACO, ME 04072-0856, 282-1564

RAMON W. PAGAN, ESQ.

[term 04/28/00]

[COR LD NTC ret]

888 GRAND CONCOURSE, BRONX, NY 10451, 718/993-1598

GEOFFREY M RUDAW

[COR LD NTC pse] [PRO SE]

Reg. No. 03786-036

ALLENWOOD FPC, P.O. BOX 1000, MONTGOMERY, PA 17752

Pending Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2 - conspiracy to distribute and possess w/the intent to distribute and aid and abet the distribution of and possession w/intent to distribute marijuana and other controlled substances - Sixty months imprisonment followed by a 3 year term of Supervised Release, \$100.-- Special Assessment, \$900.00 Fine, Defendant remanded to USMS

(1)

Offense Level (opening): 4

Terminated Counts: Disposition

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 963 and 18:2 - conspiracy to import and aid

and abet the importation of marijuana and other controlled substances into the U.S. - DISMISSED

(2)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 -

possession w/the intent to distribute and distribution and aiding and abetting the possession with intent to distribute and distribution of marijuana and other controlled substances - DISMISSED

(7)

Offense Level (disposition): 4

Complaints:

NONE

DENNIS W YOUNG (9)

PETER E. RODWAY, ESQ.

defendant

[term 11/22/99]

[term 11/22/99]

[COR LD NTC ret]

RODWAY & HORODYSKI, PO BOX 874, PORTLAND, ME 04104
773-8449

SAMUEL CURRIN, ESQ.

[term 11/22/99]

[COR LD NTC ret]

PO BOX 269, RALEIGH, NC 27602, 919-833-0888

Pending Counts: Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2
- conspiracy to distribute and possess w/the intent to distribute and aid and abet the distribution of and
possession w/intent to distribute marijuana and other controlled substances. - , AMENDED

JUDGMENT: Sentence Reduced to 40 months of imprisonment. All other aspects of the Defendant's
original sentence remain the same. ORIGINAL JUDGMENT: Defendant committed to custody of BOP for
a term of 48 months on Count 1 of the Superseding Indictment; Counts 2,5,6,7,8,15 & 16 dismissed on
the motion of the Gov't; 48 months Supervised Release; \$1,000 Fine; \$100 special assessment; Dft
Remanded

(1)

Offense Level (opening): 4

Terminated Counts:

Disposition

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 963 and 18:2 - conspiracy to import and aid and
abet the importation of marijuana and other controlled substances into the U.S. - The Court granted the
Government's Oral Motion to Dismiss Counts 2, 5, 6, 7, 8, 15 and 16 of the Superseding Indictment Re:
DENNIS YOUNG

(2)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 possession with the intent to distribute and distribution and aiding and abetting the possession with intent to distribute and distribution of marijuana and other controlled substances - The court granted the Government's Oral Motion to Dismiss Counts 2, 5, 6, 7, 8, 15 and 16 of the Superseding Indictment Re: DENNIS YOUNG.

(5)

21:952=MI.F MARIJUANA - IMPORT 21:952 and 960 and 18:2 - importation and aiding and abetting the importation of marijuana and other controlled substances into the U.S. - The court granted the Government's Oral Motion to Dismiss Counts 2, 5, 6, 7, 8, 15 and 16 of the Superseding Indictment Re: DENNIS YOUNG.

(6)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 possession with the intent to distribute and distribution and aiding and abetting the possession with intent to distribute and distribution of marijuana and other controlled substances - The court granted the Government's Oral Motion to Dismiss Counts 2, 5, 6, 7, 8, 15 and 16 of the Superseding Indictment Re: DENNIS YOUNG.

(7)

21:952=MI.F MARIJUANA - IMPORT 21:952 and 960 and 18:2 - importation and aiding and abetting the importation of marijuana and other controlled substances into the U.S. - The court granted the Government's Oral Motion to Dismiss Counts 2, 5, 6, 7, 8, 15 and 16 of the Superseding Indictment Re: DENNIS YOUNG.

(8)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 possession with the intent to distribute and distribution and aiding and abetting the possession with intent to distribute and distribution of marijuana and other controlled substances - The court granted the Government's Oral Motion to Dismiss Counts 2, 5, 6, 7, 8, 15 and 16 of the Superseding Indictment Re: DENNIS YOUNG.

(15)

18:922O.F VIOLENT CRIME/DRUGS/MACHINE GUN 18:2 and 922(o) - possession and aiding and abetting the possession of a machinegun - The court granted the Government's Oral Motion to Dismiss Counts 2, 5, 6, 7, 8, 15 and 16 of the Superseding Indictment Re: DENNIS YOUNG.

(16)

Offense Level (disposition): 4

Complaints:

NONE

LARRY A YOUNG (10)

MARY A. DAVIS, ESQ.

defendant

[term 11/22/99]

[term 11/22/99]

[COR LD NTC cja]

TISDALE & DAVIS, P.O. BOX 572, PORTLAND, ME 04112, 879-9177

Pending Counts:

Disposition

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 846 and 18:2 - conspiracy to distribute and possess w/the intent to distribute and aid and abet the distribution of and possession w/intent to distribute marijuana and other controlled substances - Defendant committed to custody of BOP for 29 months on Count 1 of the Superseding Indictment, Counts 2, 11, 12 & 13 dismissed by Gov't; 36 mos. Supervised Release; \$100 special assessment, DFT Remanded.

(1)

Offense Level (opening): 4

Terminated Counts:

Disposition

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 963 and 18:2 - conspiracy to import and aid and abet the importation of marijuana and other controlled substances into the U.S. - Count granted Government's Oral Motion to Dismiss Counts 2, 11, 12 and 13 of the Superseding Indictment with respect to LARRY YOUNG

(2)

21:841A=MD.F MARIJUANA - SELL, DISTRIBUTE, OR DISPENSE 21:841(a)(1) and 18:2 - possession w/the intent to distribute and aiding and abetting the possession w/intent to distribute of marijuana and other controlled substances - Count granted Government's Oral Motion to Dismiss Counts 2, 11, 12 and 13 of the Superseding Indictment with respect to LARRY YOUNG

(11)

21:952=MI.F MARIJUANA - IMPORT 21:952, 960 and 18:2 - importation and aiding and abetting the importation of marijuana and other controlled substances into the U.S. - Count granted Government's Oral Motion to Dismiss Counts 2, 11, 12 and 13 of the Superseding Indictment with respect to LARRY YOUNG

(12)

18:9220.F VIOLENT CRIME/DRUGS/MACHINE GUN 18:2 and 922(o) - possession and aiding and abetting the possession of a machinegun - Count granted Government's Oral Motion to Dismiss Counts 2, 11, 12 and 13 of the Superseding Indictment with respect to LARRY YOUNG

(13)

Offense Level (disposition): 4

Complaints:

NONE

U. S. Attorneys:

JONATHAN A. TOOF

780-3257

[COR LD NTC]

HALSEY B. FRANK, ESQ.

[COR]

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