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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Docket No. 10 CR 673-1
)	
vs.)	
)	
DANA BOSTIC,)	Chicago, Illinois
)	August 2, 2012
Defendant.)	10:30 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MATTHEW F. KENNELLY

APPEARANCES:

For the Plaintiff:	UNITED STATES ATTORNEY'S OFFICE
	BY: MS. MEGAN C. CHURCH
	MS. YASMIN N. BEST
	MS. BETHANY K. BIESENTHAL
	219 South Dearborn Street
	Chicago, Illinois 60604

For the Defendant:	LAW OFFICES OF BEAU BRINDLEY
	BY: MR. BEAU BRINDLEY
	53 West Jackson Boulevard
	Suite 1410
	Chicago, Illinois 60604

	MR. JOSHUA J. JONES
	226 West St. Paul, Unit G
	Chicago, Illinois 60614

Also Present:	MS. MEREDITH CLIFTON
	U.S. Probation

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LAURA M. BRENNAN - Official Court Reporter
219 South Dearborn Street - Room 2102
Chicago, Illinois 60604
(312) 435-5785

1 (The following proceedings were had in open court:)

2 THE CLERK: 10 CR 673, USA v. Bostic.

3 THE COURT: Good morning.

4 MS. CHURCH: Good morning, your Honor; Megan Church
5 Bethany Biesenthal and Yasmin Best for the United States.

6 MR. BRINDLEY: Good morning, your Honor; Beau
7 Brindley and Joshua Jones on behalf of Dana Bostic, who is
8 present, your Honor.

9 THE COURT: All right. Both sides ready --
10 I'm sorry.

11 MS. CLIFTON: Good morning, your Honor; Meredith
12 Clifton on behalf of probation.

13 THE COURT: Both sides ready to proceed with the
14 sentencing?

15 MS. CHURCH: Yes, your Honor.

16 MR. BRINDLEY: We are, your Honor.

17 THE COURT: Okay. So are you planning on doing
18 witnesses first or what exactly?

19 MS. CHURCH: Judge --

20 THE COURT: I know there's some people back in the
21 room back there.

22 MS. CHURCH: Yes, your Honor. My suggestion would be
23 to go over the guidelines first because none of the witnesses
24 are really --

25 THE COURT: They don't pertain to any deadlines

1 issues.

2 MS. CHURCH: No.

3 THE COURT: Okay. All right. So putting aside
4 guideline issues for the moment, does the government have any
5 objections to anything in the presentence report?

6 MS. CHURCH: No, your Honor, except as noted with
7 regard to Mr. Bostic's criminal history.

8 THE COURT: That's a guideline issue. We'll get back
9 to that.

10 So, Mr. Brindley and Mr. Jones, have you read the
11 presentence report and discussed it with Mr. Bostic?

12 MR. JONES: Yes, your Honor.

13 THE COURT: Mr. Bostic, did you read the presentence
14 report?

15 THE DEFENDANT: Yes.

16 THE COURT: Did you discuss it with your lawyers?

17 THE DEFENDANT: Yes.

18 THE COURT: And aside from guideline issues, are
19 there any objections or corrections to anything in the report?

20 MR. JONES: No, your Honor.

21 THE COURT: Okay. So the first thing is then --
22 going to guideline issues, the first thing is criminal
23 history. Let me just get the right thing up here. One
24 second.

25 (Brief interruption.)

1 THE COURT: So does everybody agree that the gun
2 conviction is part of the instant offense?

3 MS. CHURCH: Yes, Judge.

4 MR. JONES: Yes.

5 THE COURT: Are there any other issues besides that?
6 I'm blanking.

7 MS. CHURCH: No, Judge. We're in agreement --

8 THE COURT: As to what the criminal history ought to
9 be?

10 MS. CHURCH: Yes, your Honor.

11 THE COURT: Okay. So that means then --

12 Hang on a second.

13 (Brief interruption.)

14 THE COURT: I wasn't working with a paper copy, so
15 I've got to get back to that.

16 So this is the 2005 state court felon in possession
17 conviction?

18 MS. CHURCH: Yes, Judge.

19 THE COURT: So the one point directly given for that
20 should come off. And was there anything else that comes off
21 for that or is it just --

22 MR. JONES: Two points for being on --

23 THE COURT: Being on probation.

24 MR. JONES: Yes.

25 THE COURT: So then the total number of criminal

1 history points then would be --

2 MS. CHURCH: Three.

3 THE COURT: -- three, not six --

4 MS. CHURCH: Yes, Judge.

5 THE COURT: -- which makes him a category 2, not 3.

6 MS. CHURCH: Yes.

7 THE COURT: Okay. All right. I agree that that is
8 correct.

9 So in terms of other guideline issues then, let me
10 just get my notes up in front of me here. So if I have this
11 correctly, as things stand right now, we have got the stash
12 house issue. We have got the role in the offense issue, three
13 versus four points. We have got the acceptance of
14 responsibility issue. And those are the only three
15 guidelines. There's other disputes, but they don't affect the
16 guideline.

17 MS. CHURCH: Correct.

18 MR. JONES: Correct.

19 THE COURT: So on the acceptance issue, you're sure
20 that the witnesses don't have any bearing on that one way or
21 another?

22 MS. CHURCH: Yes.

23 THE COURT: I mean, I'm not suggesting that they
24 should, but they don't, okay.

25 On the stash house issue, I take it it's a two-part

1 objection. Part is the ex post facto thing, which I think we
2 can set aside for the moment. And then the other part is
3 whether it's been proven to be a stash house within the
4 meaning of whatever the lingo is in the guideline?

5 MR. JONES: Correct.

6 THE COURT: I had a question about that, and then I
7 will let both sides say whatever they want.

8 Just sort of zero me in on what the evidence is
9 that --

10 Mr. Bostic, you can have a seat. You don't have to
11 stand up.

12 -- what the evidence is that Mr. Bostic paid for it.

13 MS. CHURCH: Primarily the postarrest confession of
14 Ladonta Gill whose residence it was. He stated, while
15 inculpating himself, that Bostic paid him for the rent for his
16 apartment so that he could use it, and that's where they mixed
17 and bagged the heroin.

18 There is also evidence kind of detailed throughout
19 the criminal complaint and discussed in our consolidated
20 response, but that's where they went on a week -- you know, at
21 least a weekly basis to process and package the heroin. And
22 overall the evidence has shown that the defendant was the one
23 who chose, who went there with him, who worked with him, who
24 was at the table with him.

25 So taking all of that together --

1 THE COURT: I just want to focus on the paying for it
2 at this point.

3 So if you can zero me in on which -- where I find
4 Mr. Gill's postarrest statement. What is it attached to?

5 MS. CHURCH: It's attached to the exhibits, the
6 government's consolidated response. I have a copy right here
7 Judge. Exhibit E.

8 THE COURT: Hang on a second. Okay. Exhibit E, you
9 said?

10 MS. CHURCH: Yes. It's Document 719 --

11 THE COURT: -4.

12 MS. CHURCH: -- -4.

13 Pardon me for a moment while I look for the exact
14 page.

15 (Brief interruption.)

16 MR. JONES: It's on page 2.

17 THE COURT: Sorry. You know, things are easier to
18 read on this thing but not always quite as easy to access
19 because -- okay, here it is. It's a handwritten statement.

20 MS. CHURCH: Yes.

21 THE COURT: Okay. So which part of the statement?
22 It's six pages. Which part should I look at?

23 MS. CHURCH: It's page 2 of 6.

24 THE COURT: Page 2, okay.

25 MS. CHURCH: It starts at line 4 where --

1 THE COURT: "I was living on Cicero in a third floor
2 apartment"?

3 MS. CHURCH: Yes.

4 THE COURT: Let me just read it to myself here.

5 (Brief interruption.)

6 THE COURT: Okay. So what he says is the apartment
7 was paid for by Dana Bostic, who I know as Bird and Mellow.
8 The rent was 675.

9 So you take that as him saying that Mr. Bostic was
10 giving him money for the rent as opposed to he was getting
11 money for his role in the conspiracy and then taking it out of
12 that.

13 MS. CHURCH: Exactly.

14 THE COURT: Okay. All right, talk to me about that.

15 MR. JONES: Yes, your Honor.

16 Our position would be that that, obviously, was not
17 the specific focus of what he's talking about here. He's
18 going through what happened in the course of the conspiracy,
19 and there are no details as to how exactly this happened. He
20 does say, obviously, the money in this case with regard to
21 paying for anything, paying his -- paying for his services or
22 paying for the stash house is ultimately coming from the sale
23 of heroin, which is going to be traced back to Dana Bostic.

24 But there is no indication as to whether or not he
25 was giving him that money, saying, okay, you know, as part of

1 your role in the conspiracy, you can have this, this house,
2 but it's clear that it wasn't just being used for the breaking
3 down of heroin. He lived there. He lived there with his
4 girlfriend.

5 It was not as though Mr. Bostic had any control over
6 what he did with the apartment except for at the times when
7 they went there to use it to break down the heroin. And I
8 think that the guideline in this case, specifically the
9 application notes, make clear that you're not supposed to just
10 look at those specific instances of time when it's actually --
11 something is being done with drugs at the house. You're
12 looking at whether or not the premises as a whole were
13 maintained primarily for that purpose.

14 THE COURT: Which application note is it?

15 (Brief interruption.)

16 THE COURT: It's 28, I think.

17 MS. CHURCH: 12?

18 THE COURT: It's application note 28.

19 So B-12 says, quote:

20 "If the defendant maintained the premises for the
21 purpose of manufacturing or distributing a controlled
22 substance," close quote, increase by two levels.

23 And then application note 28 says:

24 The factors to consider in determining whether the
25 defendant, quote, "maintained," close quote, the premises is,

1 number one, whether he had a possessory interest; number two,
2 the extent to which he controlled access.

3 And then the next paragraph says it doesn't have to
4 be the sole purpose for which the premises was maintained, but
5 it must be one of the primary or principal uses rather than an
6 incidental or collateral use. So I should consider how
7 frequently it was used for manufacturing or distributing and
8 how frequently it was used for lawful purposes.

9 So on the government's side, what is the --

10 So was Mr. Gill actually living there, too?

11 MS. CHURCH: Yes, Judge.

12 THE COURT: He was, okay. So what do I have -- what
13 evidence do I have as to how frequently the place was being
14 used to mix? It was for mixing basically is what it was for.

15 MS. CHURCH: Yes, the processing and the packaging to
16 bring it back out onto the street.

17 The criminal complaint affidavit details surveillance
18 and intercepted calls on what was about at least a weekly
19 basis where the defendant got the heroin from his supplier or
20 he sent Brandon Richards or Ladonta Gill to go pick up the
21 wholesale quantity of heroin from his supplier.

22 Then they went back to Gill's residence where they
23 processed and packaged the heroin and then Bagley was called
24 to pick up the heroin to bring back out to the street. That
25 was from April on, it was on at least a weekly basis.

1 And since he paid the rent for that apartment and he
2 controlled who was with him at the table while he was there
3 and while he was working with the heroin, it was a stash
4 house. That was his purpose for paying the rent for that
5 apartment. Ladonta Gill lived there. That was a great
6 incidental benefit for Mr. Gill, and it was something that
7 Bostic could provide to him, but his purpose was to use it as
8 a stash house, and that's what the evidence has shown.

9 THE COURT: So if I can paraphrase that or put it in
10 a different way, what you're saying here is that the focus was
11 on what Mr. Bostic's purpose was vis a vis the apartment. And
12 as far as Mr. Bostic was concerned, there wouldn't have been
13 any reason for him to have been paying the rent other than to
14 have it as a stash house, and the fact that Mr. Gill was
15 living there, that might have been Mr. Gill's purpose, but it
16 really wasn't Mr. Bostic's purpose, or at least not his
17 primary purpose.

18 MS. CHURCH: Correct.

19 MR. JONES: Your Honor, I believe that the
20 application note creates a precondition to the issue of
21 purpose, which is maintaining the premises. That's why it
22 asks the Court to look to the extent to which the defendant
23 controlled access to or activities at the premises, not just
24 the specific time that it's being used to break down the
25 heroin, but whether or not he actually maintained the

1 premises, and that's before you determine what his purpose in
2 maintaining the premises were.

3 Our position is Mr. Bostic did not maintain these
4 premises. He did not control access for the vast majority.

5 THE COURT: So, I mean, putting aside for a moment
6 the question about whether Mr. Bostic ranks higher or lower
7 than Mr. Richards, is there any dispute that Mr. Gill ranks
8 below both of them?

9 MR. JONES: No, your Honor.

10 THE COURT: Okay. And it wasn't just Mr. Gill who
11 was in there doing the packaging and mixing, right? There's
12 other people besides Mr. Gill.

13 MR. JONES: My understanding is that there were other
14 people on other occasions.

15 THE COURT: So who was it that let them come in? I
16 mean, wasn't Mr. Bostic involved in saying, okay, A and B are
17 going to come in there and help mix the stuff?

18 MR. JONES: Yes. I mean, certainly there is some
19 indication, obviously, he had a role in that. But I don't
20 think that the guideline asks us to look at who controlled
21 access to the premises just at the time that -- I mean, Mr.
22 Bostic was not there for the vast majority.

23 THE COURT: But, see, you said that maintaining was a
24 prerequisite, but now you're conflating the two things. I
25 mean, I was trying to do it the way you were saying.

1 MR. JONES: Well, I think if you say that --

2 Okay. We're asking, first, generally whether or not
3 Mr. Bostic maintained the premises. And that doesn't -- when
4 you ask in general whether somebody maintains a premises, you
5 don't ask, well, did they maintain it for this specific
6 purpose. I think any drug dealer that uses any house is going
7 to maintain it for that limited period of time during which
8 the drugs are being broken down. I think that would turn any
9 house into a stash house that is used for that purpose at any
10 given time because during that period --

11 THE COURT: Everybody who is in the courtroom needs
12 to remove those hats. That includes the gentleman who is
13 sitting down there. Thank you.

14 All right, go ahead.

15 MR. JONES: If you focus only on those specific
16 periods of time in which the drugs are actually being broken
17 down, of course, the person who is in charge of the drug
18 dealing is going to control the premises for that limited
19 period of time. But I think the guidelines are looking to
20 something different.

21 And I also think if you -- it's useful to compare
22 this to --

23 Your typical stash house is not someplace where
24 somebody is living; it's a place that is actually maintained
25 for that purpose. There is no furniture. I have seen that in

1 many cases. And I think this is markedly different because we
2 have an individual --

3 THE COURT: But the guideline doesn't say its sole
4 purpose. In fact, it specifically says that it doesn't have
5 to be the sole purpose. I mean, even though the way the
6 language is worded, it says "the purpose," the application
7 note says it doesn't have to be the purpose. It has to be
8 a -- you know, it has to be one of the defendant's primary or
9 principal uses for the premises rather than an incidental or
10 collateral use.

11 MR. JONES: Right, and I don't want to, obviously,
12 repeat myself, but I think that the problem we have with that
13 reasoning is that, first, we believe the defendant has to
14 maintain the premises and that the government hasn't carried
15 their burden in showing that he's done that in this case.

16 And I think if you combined the maintaining and the
17 purpose prongs of this analysis, what you end up doing is
18 saying, well, we're just focusing on the time when the drugs
19 are being broken down. And in that case, you're going to have
20 -- anytime you use any premises anywhere, as long as the
21 defendant is in charge at that very moment, he is going to be
22 maintaining those premises for the purpose of breaking down
23 the drugs or storing the drugs, and then it would apply in an
24 innumerable number of cases, and I don't think that's what is
25 meant here.

1 I think that maintaining the premises prong looks at
2 the entire use of the property, not just those specific
3 instances.

4 THE COURT: Give me just a second here. I'm trying
5 to find something else. Bear with me.

6 (Brief interruption.)

7 THE COURT: I just have to find something here. I'm
8 sorry. I am just trying to relate this to something else that
9 I had occasion to work on recently.

10 (Brief interruption.)

11 THE COURT: Okay. Ms. Church, what else would you
12 like to tell me?

13 MS. CHURCH: Judge, I think the fact that Mr. Bostic
14 paid the rent for the apartment shows that he maintained it.
15 They don't -- the guidelines don't really define what
16 maintenance is, but as a matter of common sense, paying for
17 the apartment allowed it to be used, and that's exactly what
18 Mr. Bostic did. That's what the evidence showed.

19 His primary purpose in paying for the apartment was
20 to use it as a stash house. That's what the evidence has
21 shown, and that's why this guideline enhancement is
22 appropriate.

23 THE COURT: All right. There's a similar statute out
24 there. It's commonly referred to as the crack house statute,
25 Section 856 of Title 21. And the guidelines in the statute,

1 which is essentially worded the same way, for the purpose of,
2 are difficult to interpret, and there's been a lot of ink
3 spilled over how they're to be interpreted.

4 I happened to sit on the Ninth Circuit about eight,
5 nine months ago and sat on a panel where we tried to deal with
6 what the crack house statute meant and the purpose of it.
7 It's called U.S. v. Shetler, S-h-e-t-l-e-r, 665 F.3d 1150. I
8 wasn't the author of the opinion; I was just one of the judges
9 on the panel. And it basically cataloged, you know, how
10 difficult it is to figure out what these statutes mean because
11 if you look at it, you say "for the purpose of," it sounds
12 like it has to be the sole purpose, but it's pretty clear
13 that's not what was intended.

14 And actually in the guideline it is very clear that
15 that's not what was intended because the application note,
16 which is drafted by the same people who drafted the guideline,
17 says it doesn't have to be the sole purpose; it just has to be
18 one of the primary or principal uses as opposed to an
19 incidental use, which is essentially where we came out in this
20 case. There has to be some significant purpose.

21 And I do think actually that Ms. Church has a point
22 when she says that what we're looking at here is the purpose
23 that the defendant had. So, number one, I think there's
24 sufficient evidence to make a finding by a preponderance that
25 Mr. Bostic paid the rent. And so that's the first part of the

1 test, or at least part of the first part of the test. I think
2 that there is plenty of evidence that he had some degree of
3 control over access, at least for the purpose of whatever drug
4 activity was going on there, because the people who were in
5 there were all people who worked -- with the arguable
6 exception of Mr. Richards, which we'll come back to, there
7 were other people who going in there who worked under Mr.
8 Bostic and were in there for the purpose of furthering the
9 drug conspiracy that Mr. Bostic was either at or close to the
10 very top of.

11 So I think those two things together are sufficient
12 to show that he maintained the premises, and I think
13 Ms. Church is right when she says that what I'm supposed to
14 look at is his purpose. And it's certainly true that -- and I
15 suspect that nobody would dispute that the residence was used
16 mostly for things other than -- the residence as a whole was
17 used mostly for things other than drug activity. Mr. Gill
18 lived there.

19 But what we're looking at here is Mr. Bostic's
20 purpose, and no other purpose sort of lends itself or emerges
21 from the evidence that Mr. Bostic would have for paying the
22 rent and controlling access or at least influencing the access
23 other than with regard to drug activity. So I think the
24 government has met its burden on that.

25 On the ex post facto thing, I mean, I will say what I

1 -- and I don't think Mr. Gill actually contested the
2 applicability in terms of whether -- although the requirements
3 had been met, I think he argued about the ex post facto thing.
4 I'm going to say basically the same thing I said there. So
5 the Seventh Circuit -- and perhaps it's alone among the
6 circuits or there may be one other one -- has said that since
7 the guidelines are advisory, the ex post facto clause doesn't
8 apply to them. That's the law and that's what I follow.

9 Having said that, I do think that there's an element
10 of unfairness in coming along after the fact and increasing at
11 least the advisory penalty for something that a person had
12 already done before that. And so I think that the way that
13 this is appropriately taken into account is under 3553(a). So
14 that's where I will consider it. So that's the stash house
15 use.

16 Role in the offense. I've read everything everybody
17 has to say. It would be helpful, though, if people could sort
18 of give me a little sum-up on that, and it's three versus four
19 points, I take it. So your burden, so why don't you go first.

20 MS. CHURCH: Yes, Judge.

21 The evidence has shown, looking at not only the
22 affidavit in support of the criminal complaint, the exhibits
23 filed in conjunction with the government's consolidated
24 response to the defendant's objections in the sentencing
25 memorandum, the additional materials here, as well as

1 everything that you have heard during the course of this case,
2 that the defendant was the one who was in charge of everybody.
3 He doesn't dispute, in fact agrees, that he has been a drug
4 dealer since he was a kid. The evidence has shown that he's
5 been in control of this organization for almost a decade since
6 the person who was in control before was killed.

7 He was the one who had everyone working for him in
8 and out of the organization as people were incarcerated, as
9 other people were killed, as people grew up and moved on. He
10 was the constant. He decided who worked with him and went
11 with him to the table. He was the one with the connection
12 with the heroin sources of supply. He had more than one, but
13 he was the one who made those calls, who decided how often to
14 make those calls, who asked for what was available, who got
15 what was available, then brought it back so that it could be
16 mixed and bagged with other people who worked for him and then
17 distributed on the street.

18 Mr. Richards, who Mr. Bostic claims he was equal to,
19 didn't come on the scene until, at earliest, 2008. He claimed
20 it was 2009 after Lee Floyd was killed. So for a much shorter
21 period of time, Brandon Richards was working for this
22 organization at what we would say is the second highest level.
23 Nearly all the postarrest statements and other statements of
24 individuals in this case have stated that Richards was
25 Bostic's right-hand man. Eddie Valentino, who was his source

1 of supply, kind of characterized him as being Bostic's driver.
2 He was always there, but he wasn't the one who Bostic dealt
3 with.

4 The defendant was able to delegate the street-level
5 responsibilities to Brandon Richards, but those intercepted
6 phone calls that we have cited and attached line sheets and
7 transcripts for your Honor show that he checked in, he wanted
8 to know what was going on in his territory. Richards brought
9 him the money. The defendant directed Richards as to what to
10 do, what errands to run for him, when to pick him up, when to
11 bring the money. All of that shows that he was at a higher
12 level than Brandon Richards.

13 We agree Mr. Richards was at an extremely high level.
14 He was the next in command. But the defendant was above him,
15 and that's why he's the one deserving of the four-level
16 enhancement.

17 THE COURT: Mr. Jones or Mr. Brindley.

18 MR. JONES: Yes, your Honor.

19 There's no disputing that Mr. Bostic had the -- was
20 the -- had the connection to get the heroin, and with that
21 came a certain amount of authority. But I think when we're
22 talking about the role in the offense, the guideline directs
23 us not just to look to that simple fact, but also to look at
24 what people were doing within the conspiracy.

25 And in Mr. Richards we have an individual who was not

1 only -- who was recruiting other individuals and who was the
2 primary source of contact. The government talks about
3 Valentino saying that Mr. Richards was essentially the driver.
4 Well, when they went to go pick up the drugs, yes, Mr.
5 Richards went, and Mr. Bostic was the person who actually knew
6 Valentino and arranged for the drugs.

7 But if you talk to any of the individuals who were
8 actually involved in the sale of the drugs or the breaking
9 down of the drugs, it's Mr. Richards who on a daily basis was
10 involved with them, who was on a daily basis responsible. If
11 somebody needed a gun, they would call Mr. Richards, not Mr.
12 Bostic. And the calls that the government has obtained during
13 the course of their investigation do not nearly show the level
14 of control that they advocate here.

15 While there are occasions where Mr. Richards calls
16 and consults with Mr. Bostic about various things, given the
17 fact that this was a daily operation and the things that the
18 government knows was going on during this time period, it is
19 clear that Mr. Richards is exercising an extraordinary amount
20 of individual autonomous control over the drug conspiracy.

21 The government also talked about the fact that Mr.
22 Richards was supposedly in the conspiracy for a shorter period
23 of time than Mr. Bostic, but the fact of the matter is before
24 Mr. Richards, there was Curtis Ellis and Lee Floyd that
25 occupied those same positions where --

1 THE COURT: Which same positions?

2 MR. JONES: Yes.

3 THE COURT: Which same positions? The same positions
4 as who?

5 MR. JONES: Richards.

6 THE COURT: As Richards, okay. Richards replaced
7 Ellis basically-ish, sort of more or less.

8 MR. JONES: Yes. I want to refrain from making --
9 it's our position the government makes it much more formal
10 than it is.

11 THE COURT: Fair enough.

12 MR. JONES: But, yes. So it's not as though before
13 Mr. Richards, Mr. Bostic was doing all the things that Mr.
14 Richards was doing. There were other individuals that were
15 doing that.

16 So it's our position that if we take a look kind of
17 beneath these labels or rumors on the street and beneath the
18 mere fact that Mr. Bostic had access to the heroin source,
19 what we have is certainly Mr. Bostic in a significant position
20 of authority, but a position that is essentially equally
21 culpable as that of Mr. Richards. And for that reason, we
22 think a three-point enhancement is appropriate.

23 THE COURT: Let me just ask both sides a question,
24 which I don't think was addressed, and maybe it's because
25 there is just no information in the evidence about it.

1 So what information -- and I recognize that you said
2 before, and there's certainly evidence to support the
3 proposition that Richards was bringing proceeds to Mr. Bostic.
4 Is there any information about how the pie got divided up?

5 MS. CHURCH: Yes, Judge. Some of it's detailed in
6 the affidavit in support of the criminal complaint in terms of
7 what happened.

8 THE COURT: That was that big, long thing?

9 MS. CHURCH: Exactly.

10 Basically for each pack that went onto the street,
11 there were 14 user quantities, or 14 double blows. And as
12 they were passed out, each overall quantity was worth --
13 sorry. Each user quantity was worth \$10, and they usually
14 sold dubs, so they were worth \$20. The street level dealers
15 kept 20, passed the rest of the money out, so it would be
16 about \$120.

17 THE COURT: So it's \$140 worth. They keep 20, they
18 pass another 120.

19 MS. CHURCH: And so then it would be \$20 would go to
20 the runner, the person who passed it out. The hundred bucks
21 goes back to Brandon Richards and Dana Bostic.

22 In terms of the amount that they were -- that Bostic
23 was spending, it was about, I think, \$6,500 to \$6,800 per
24 hundred grams of heroin which then --

25 THE COURT: Spending, in other words, to get the

1 heroin.

2 MS. CHURCH: Exactly. Which they expanded
3 exponentially when they mixed it and bagged it.

4 So overall in terms of the amount of money that Mr.
5 Bostic or Mr. Richards pocketed, I don't really know.

6 THE COURT: That was really my question. Do you have
7 any information or did you get any information about how much
8 Mr. Richards was putting in his pocket as opposed to Mr.
9 Bostic or vice versa?

10 MS. CHURCH: No. We have --

11 THE COURT: Okay. All right, fair enough.

12 MS. CHURCH: In the calls --

13 THE COURT: I mean, there's discussion about it in
14 the calls, I understand that.

15 MS. CHURCH: Yes.

16 THE COURT: Okay. Anything you want to contribute on
17 that at all?

18 MR. JONES: No, your Honor, just that our main issue
19 is between Bostic and Richards.

20 THE COURT: You know, I think that the --

21 First of all, I want to talk about this issue of
22 autonomy. I don't have any doubt that Mr. Richards had a good
23 deal of autonomy if you think about this in terms of a
24 business organization because that's what it was. You know,
25 the CEO of a corporation is the leader, if you will, of the

1 corporation. There are people that work at a management level
2 under the CEO. They might be a vice-president. They might be
3 a head of a division or something like that. And each one of
4 those people absolutely has a good deal of autonomy because
5 the CEO can't have his or her finger in every bit of
6 everything that goes on. That's what, you know, management
7 and leadership is all about, or at least part of what it's all
8 about.

9 That doesn't mean that the CEO is any less of a
10 leader. Everybody at some level has autonomy. Maybe even the
11 pack workers have autonomy as to whether they stand here or
12 stand over there or whether they, you know, call out this or
13 whether they call out that, and at each level, somebody has a
14 certain amount of autonomy. So I don't think the fact that
15 Mr. Richards had autonomy, and maybe a good deal of autonomy,
16 means that he wasn't ranked below Mr. Bostic.

17 And I agree that we don't have formal titles here.
18 Again, that's part of the nature of the operation. It's not a
19 legal business; it's an illegal business, and people aren't
20 going to necessarily have titles. I think there's plenty of
21 evidence, though, that Mr. Bostic ranked higher than Mr.
22 Richards, and I think one of the key elements of that is the
23 fact that Mr. Richards was giving the money to Mr. Bostic. I
24 think there is plenty of evidence of that. There is a good
25 deal of evidence that shows Mr. Bostic, as Ms. Church said a

1 few minutes ago, you know, giving pass to Mr. Richards and
2 then checking back to make sure they were done.

3 All in all, if you look at everything together, I
4 think that the criteria for the leadership enhancement is met.
5 So I think that the government has the better of this
6 argument. So that's a four-level enhancement as well.

7 The last thing has to do with acceptance of
8 responsibility, or the last guideline dispute has to do with
9 acceptance of responsibility. And I want to make sure that
10 I'm getting exactly what the dispute is at this point because
11 I'm, frankly, not sure that I have a real clear handle on it.
12 So in the last filing that I got, which was the defendant's
13 response to the government's consolidated filing -- this was
14 just filed a couple of days ago -- no, I'm sorry. Maybe
15 that's the wrong place. No, that's it.

16 On pages 4 and 5, I mean, I understand that one of
17 the issues is what was going on with Mr. Bostic after he --
18 within the several days between when he learned about the
19 indictment and when he was arrested. Is that what the whole
20 dispute is about, or is there more to it than that?

21 MS. CHURCH: There's more to it.

22 THE COURT: Okay. So what is the more?

23 MS. CHURCH: Your Honor, at the time the defendant
24 changed his plea, his plea declaration was essentially that he
25 was the middleman in --

1 THE COURT: In a particular transaction or a couple
2 of transactions.

3 MS. CHURCH: Exactly, your Honor, between Eddie
4 Valentino and Brandon Richards, which was not the case. As
5 your Honor just found, he was the leader of this organization.

6 Mr. Bostic now has not gone on to dispute the overall
7 evidence of the heroin conspiracy in the presentence
8 investigation report, but that is quite different than saying
9 this is what I did. And right now the only evidence on record
10 of what the defendant said he did was that he was basically
11 just a middleman, which is not the case.

12 Additionally, the defendant has not been forthcoming
13 with probation about what he did with all that money. We have
14 that he doesn't have any, but what did he do with all of it?
15 We know he had a series of cars that he put in other people's
16 names. He hasn't provided any of that information to
17 probation, which is absolutely required.

18 And there is the aspect of him being a fugitive.
19 Mahogany Barbee was convicted in this court in this case for
20 harboring Mr. Bostic when he was a fugitive. He absolutely
21 did his best to evade law enforcement.

22 THE COURT: So one of the things -- and I don't have
23 enough of the detail about this to know anything about it.
24 But one of the things that is said in the defendant's
25 submissions is that there was a lawyer. He was in

1 communication with his lawyer about surrendering. Now, I
2 don't know if that was the lawyer that originally represented
3 him in the case or not, Mr. --

4 MS. CHURCH: Wiener.

5 THE COURT: -- Wiener.

6 Can anybody shed any light on that because people
7 just kind of refer to it as if I'm supposed to know what it's
8 about, and I don't.

9 MR. JONES: Yes, your Honor.

10 Mr. Wiener was the lawyer that Mr. Bostic was in
11 contact with during those two to three days before he was
12 arrested after the arrest started taking place. So he
13 contacted -- and it's coming from the grand jury statement of
14 Mahogany Barbee. She indicates that Mr. Bostic was --

15 THE COURT: Where is that in all -- I know I have
16 seen that statement somewhere and I just don't remember
17 exactly where.

18 MS. CHURCH: Your Honor, it's attached as Government
19 Exhibit --

20 THE COURT: To that same filing you were talking
21 about a minute ago?

22 MS. CHURCH: Yes, Judge. F.

23 THE COURT: All right.

24 MR. BRINDLEY: 719 is the filing, your Honor.

25 MS. CHURCH: I believe it starts at page 8.

1 THE COURT: Mahogany Barbee, page 8.

2 MS. CHURCH: The discussion --

3 THE COURT: Where it says "the morning of August
4 11th"?

5 MS. CHURCH: Yes, Judge.

6 THE COURT: Pause for a second and let me reread
7 that.

8 (Brief interruption.)

9 THE COURT: Okay. Go ahead, Mr. Jones.

10 MR. JONES: Your Honor, it's kind of a little bit
11 spread out. There's about three or four references. I didn't
12 know how far --

13 THE COURT: Yes, I saw it.

14 MR. JONES: First, with regard to the plea
15 declaration, as your Honor and the government is aware, the
16 purpose of the plea declaration is to establish a factual
17 basis so the Court can decide whether to accept the plea. Mr.
18 Bostic did set forth facts that were sufficient for that
19 purpose. All the facts he set forth in the plea declaration
20 were true.

21 The fact that the evidence regarding the conspiracy
22 was turned out for relevant conduct purposes to be larger than
23 what the plea declaration states doesn't mean that Mr. Bostic
24 somehow lied or misled the Court. It simply meant that Mr.
25 Bostic waited until sentencing to assess the full scope of the

1 government's evidence.

2 The acceptance of responsibility does not -- requires
3 the defendant to admit essentially what he did. In this case
4 he has done that. And I think most of what the government
5 alleges here is that Mr. Bostic disagrees with the government
6 with regard to their characterization of evidence or facts
7 that he does not -- has not disputed.

8 THE COURT: Okay.

9 MR. JONES: With regard to the --

10 THE COURT: Let me ask the thing on what Ms. Church
11 said about giving or not giving information to probation. I
12 understand what you're saying and I get it. And, of course, I
13 too, wonder where did the money go. But I guess I didn't
14 really see anything in the presentence report where probation
15 is saying, we asked Mr. Bostic for something, he didn't give
16 it to us.

17 MS. CHURCH: No, Judge. It's more he said he didn't
18 have anything.

19 THE COURT: I mean, how do we know that's not true?
20 Maybe he doesn't. Maybe he had given it all away already. In
21 other words, it would be one thing -- and I hate to be
22 lawyerly about it, but we're all lawyers, okay.

23 It would be one thing if the financial statement that
24 he has to fill out says, okay, in addition to telling us what
25 you have got now and what your income is, tell us about

1 everything you have transferred in the last X number of years.
2 Now, it's been a long time since I've seen one of those
3 financial statements, so I don't know what they currently say.
4 But my recollection from the distant past is that that was not
5 something that was generally in the financial statement
6 itself. It might have been something that somebody asked at
7 some point in time, but if that were the case, I would have
8 expected to see something in the presentence report, well, we
9 asked him if he transferred anything, and he said, no, I
10 didn't transfer anything.

11 MS. CHURCH: Yes, Judge. And I don't actually know
12 whether he was asked in the financial --

13 THE COURT: Do you have the financial statement
14 there? Can I look at it?

15 MS. CLIFTON: I have Mr. Bostic -- the short form.
16 He reported no assets. We also have the long form but we --

17 THE COURT: So the thing that he filled out, does it
18 ask him to talk about transfers, prior transfers?

19 MS. CLIFTON: It does not. Our only form that does
20 that asks for just two years.

21 THE COURT: Two years, all right.

22 MS. CHURCH: Judge, as we also know from the grand
23 jury testimony of Mahogany Barbee, the defendant placed his
24 possessions in other people's names such as hers. And as a
25 result, no matter what was going to report, it wouldn't

1 include the information about things that he transferred to
2 other people, so as to hide what were actually his assets.

3 MR. JONES: Your Honor --

4 THE COURT: You don't need to say anything else.

5 I think there has been a sufficient showing of
6 acceptance of responsibility. First of all, I don't -- for
7 the reasons just described, I don't think that there's been a
8 showing that information was concealed from probation. I
9 mean, if there was --

10 And this is no criticism of probation at all in the
11 least, please. If there was a form that, you know, as you see
12 sometimes in litigation that asks people to disclose not just
13 what I have now and just not what I have coming in now, but
14 what I've disposed of, and he, you know, had said something
15 untruthful there or had hidden something, that would be one
16 thing. I don't think that's the case, so I don't think that's
17 a real issue.

18 As far as the plea is concerned, I mean, I've tried
19 to distinguish and I think it's appropriate to distinguish
20 between lawyer argument and statements by defendants. And,
21 you know, a good deal of what we're talking about here is
22 lawyer argument about whether what the government has offered
23 adds up to this enhancement or that enhancement. Mr. Bostic
24 has not disputed, and, in fact, in one of the filings he
25 expressly agreed to the total quantity that he's responsible

1 for. So that is a pretty significant, you know, acceptance of
2 responsibility for the overall quantity that's involved.

3 The fact that he admitted to -- you know, that the
4 factual basis that was in his plea declaration just involved
5 one transaction, I think Mr. Jones is right. You just need to
6 show -- he pled to a conspiracy count, if I recall correctly.
7 Is that right, he pled to a conspiracy count?

8 MR. BRINDLEY: Yes, your Honor.

9 THE COURT: He just had to show that there was -- he
10 probably didn't have to show this -- that something was done
11 in furtherance of the conspiracy. So I don't think that we
12 have a situation here where somebody is saying, I did this but
13 I didn't do that.

14 The last thing is the flight issue. That's probably
15 the closest thing. But what I get from Ms. Barbee's
16 statement -- and I don't say this to try to in any way
17 undercut her guilty plea. What I get from her statement is
18 that, you know, Mr. Bostic was out of his house, not because
19 he was trying to get away from anybody, but, at least
20 according to Ms. Barbee, because the power was out and it was
21 too hot and it was, you know, the middle of the summer, just
22 like now basically, and they were staying at a hotel probably
23 where there was air conditioning. He heard that, you know,
24 people were being arrested. At some point within this
25 three-day period, he learned that people were looking for him.

1 He didn't know why. He called his lawyer. He made some --
2 had some discussion with his lawyer about turning himself in.
3 His lawyer said he would make arrangements for that. Whether
4 it was because the lawyer didn't really follow up on that or
5 whatever, he ended up getting arrested.

6 But I don't really see any attempt here to, you know,
7 get away or anything like that. He more or less stayed where
8 he was and eventually was arrested. So I don't think that
9 that defeats acceptance. I think he has sufficiently admitted
10 his conduct and not contested the quantity, and I think that's
11 enough.

12 So the two levels come off for that, not the third,
13 because that's up to the government. So that would make then
14 the overall, or the total, offense level 41 as opposed to 43.
15 And as already discussed, the criminal history category --

16 MS. CHURCH: Judge, just to correct.

17 THE COURT: Did I miss something?

18 MS. CHURCH: I have 36 plus four plus two plus two.

19 THE COURT: Oh, that's right, because it only goes
20 down one point because there was that one point that --

21 MS. CHURCH: No, Judge. I have just in total,
22 there's 36 is the base offense level. There's four for
23 leader/organizer.

24 THE COURT: Oh, I added one.

25 MS. CHURCH: Plus two for the use of a gun, plus two

1 for the stash house.

2 THE COURT: That's 44.

3 MS. CHURCH: Right, minus two is 42.

4 THE COURT: Yes. It had gotten reduced to 43 before
5 because everything that's a 44 gets reduced to 43, but that
6 doesn't happen. That's what I was trying to refer to in sort
7 of a backhanded way. So I'm wrong.

8 So the offense level should be 42, not 41, as I said.
9 Right. So that means that the advisory range is 360 months to
10 life. Okay.

11 Are we ready for witnesses yet? I would really like
12 to kind of get that going because they have all been sitting
13 back there. So what's the lineup?

14 MS. CHURCH: We will call Maurice Davis first,
15 followed by Aaron Bagley, followed by Cornelius Thomas.

16 THE COURT: Okay. All right. I don't know. Maurice
17 Davis. I will just stick my head back there.

18 (Brief interruption.)

19 THE COURT: Mr. Davis, have a seat. Raise your right
20 hand.

21 (Witness sworn.)

22 THE COURT: Ms. Church, you can proceed.

23 MS. CHURCH: Yes, Judge.

24 MAURICE DAVIS, PLAINTIFF'S WITNESS, DULY SWORN

25 DIRECT EXAMINATION

Davis - direct

1 BY MS. CHURCH:

2 Q Mr. Davis, will you please introduce yourself and spell
3 your first name and your last name?

4 A Maurice Davis, M-a-u-r-i-c-e, Tyrone Davis. T-y-r-o-n-e
5 D-a-v-i-s.

6 Q Mr. Davis, I'm going to ask you to sit up and to speak
7 loudly, clearly and slowly so that everyone can hear you and
8 understand you, okay?

9 A Maurice Tyrone Davis.

10 THE COURT: We have got that already. Don't worry.
11 Go ahead.

12 BY MS. CHURCH:

13 Q Mr. Davis, how old are you?

14 A 27.

15 Q Do you have any nicknames?

16 A Capone.

17 Q How did you get the nickname Capone?

18 A From Curt.

19 Q Who is Curt?

20 A Curtis Ellis, Bostic's little brother.

21 Q Who is Bostic?

22 A Bird.

23 Q Is his real name Dana Bostic?

24 A Yes.

25 THE COURT: Bird, B-i-r-d?

Davis - direct

1 THE WITNESS: Yes.

2 THE COURT: Okay.

3 BY MS. CHURCH:

4 Q Do you know Mr. Bostic?

5 A Yes.

6 Q How do you know him?

7 A From the neighborhood.

8 Q How long have you known him?

9 A All my life.

10 Q Would you recognize Mr. Bostic if you saw him in the
11 courtroom today?

12 A Yes.

13 Q Would you please identify him by an article of clothing
14 he's wearing if you see him?

15 A Orange jumpsuit.

16 THE COURT: All right, indicating Mr. Bostic.

17 BY MS. CHURCH:

18 Q Mr. Davis, where are you from?

19 A West Side of Chicago.

20 Q Where in particular?

21 A Van Buren and Keeler.

22 Q How far did you go in school?

23 A Eighth, ninth grade.

24 Q Before you were arrested in this case, where did you live?

25 A 25th and Whipple.

Davis - direct

1 Q Mr. Davis, have you been convicted of crimes?

2 A Yes.

3 Q On or about March 8th, 2002, were you convicted of the
4 manufacture or delivery of a controlled substance in Cook
5 County?

6 A Yes.

7 Q Were you sentenced to 24 months' probation?

8 A Yes.

9 Q On May 19th, 2003, were you convicted of a probation
10 violation for that case?

11 A Yes.

12 Q Were you sentenced to three years' imprisonment for that?

13 A Yes.

14 Q On October 11, 2006, were you convicted of domestic
15 battery?

16 A Yes.

17 Q Was that also in Cook County?

18 A Yes.

19 Q Were you sentenced to a hundred days' imprisonment?

20 A Yes.

21 Q On August 1st, 2007, were you convicted of possession of a
22 controlled substance in Cook County?

23 A Yes.

24 Q Were you sentenced to 18 months' imprisonment?

25 A Yes.

Davis - direct

1 Q Mr. Davis, were you convicted in this case?

2 A Yes.

3 Q Did you plead guilty to being a part of a heroin
4 conspiracy?

5 A Yes.

6 Q Did you plead guilty pursuant to a cooperation agreement?

7 A Yes.

8 Q Generally what did you admit your role was in that heroin
9 conspiracy?

10 A Supervisor role.

11 Q What is a supervisor role?

12 A I pass out packs of heroin out to people, and they return
13 the packs to -- the money to me. I give it to people that's
14 above me.

15 Q How many people did you pass out packs to?

16 A About five, six.

17 Q So five, six a day or at a time?

18 A Five, six different people.

19 Q And who did you pass the money back to?

20 A Richards or Bostic.

21 Q In terms of your plea agreement, what are you required to
22 do?

23 A Cooperate and tell the truth.

24 Q What are you hoping for in return?

25 A A lighter sentence.

Davis - direct

1 Q What did you and the government agree in your plea
2 agreement about that sentence?

3 A Tell the truth.

4 Q In terms of the reduced sentence, did you and the
5 government agree that if you told the truth, that there would
6 be a recommendation for an agreed range?

7 A Yes, 15 to 20 years.

8 Q So do you understand that you can argue for 15 years?

9 A Yes.

10 Q And the government can argue for no higher than 20 years,
11 is that right?

12 A Yes.

13 Q Have you been sentenced yet?

14 A No.

15 Q Who is responsible for sentencing you?

16 A Judge Kennelly.

17 Q Does your sentence depend on the defendant's sentence in
18 this case?

19 A No.

20 Q Have you received any other benefits from the government?

21 A No.

22 Q Mr. Davis, were you a fugitive in this case?

23 A Yes.

24 Q When were you first aware of the charges against you?

25 A August 12th.

Davis - direct

1 Q Was that 2010?

2 A Yes.

3 Q How did you become aware of the charges in this case?

4 A I was going by Bird's sister's house to get my shirt
5 redid -- about his brother -- and I came to inform that the
6 police just ran in the house to look for Bird.

7 Q Who is Bostic's sister?

8 A Tiffany.

9 Q So you went to her house?

10 A Yes.

11 Q And after you learned that the police had been looking for
12 people, what did you do?

13 A Jumped on the highway.

14 Q Where did you go?

15 A To Michigan.

16 Q What did you do while you were in Michigan?

17 A Sell drugs.

18 Q Were you arrested in Michigan?

19 A Yes.

20 Q Why did you decide to cooperate in this case?

21 A Because I was looking at a lot of time, like 27 years.

22 Q Why did you decide to cooperate?

23 A Help myself out, get a lighter sentence.

24 Q When you initially came in and spoke to the government,
25 were you entirely truthful?

Davis - direct

1 A No.

2 Q What weren't you truthful about?

3 A Shootings, violence in our case.

4 Q Did you generally admit to working in the heroin
5 conspiracy?

6 A Yes.

7 Q Why didn't you admit to the shootings or violence?

8 A I was trying to see what all y'all had on me.

9 Q When you are referring to "y'all," you are referring to
10 the government?

11 A Yes.

12 Q Why did you decide to tell the truth?

13 A Because I had to do something to help myself out.

14 Q So what changed in between the time when you first came in
15 and didn't tell the whole truth and when you came back in?

16 A I knew this was no joke.

17 Q Pardon me?

18 A I knew this wasn't a joke. I had to do something to get
19 myself out of trouble.

20 Q Did you understand when you came back in that you had to
21 be entirely truthful?

22 A Yes.

23 Q Mr. Davis, have you used drugs in your life?

24 A Yes.

25 Q When did you first start using drugs?

Davis - direct

1 A 14.

2 Q What drugs were you using at 14?

3 A Marijuana.

4 Q After you started using marijuana at the age of 14, how
5 often did you use it?

6 A Every day.

7 Q Did you use it every day except the times you were locked
8 up?

9 A Yes.

10 Q Have you used any other drugs?

11 A Ecstasy.

12 Q When did you start using Ecstasy?

13 A When I was 17, 18.

14 Q How often did you use Ecstasy?

15 A Three or four times a day.

16 Q Was that every day?

17 A Yes.

18 Q Except for the days that you were locked up?

19 A Yes.

20 Q Mr. Davis, have you had an inappropriate sexual
21 relationship?

22 A Yes.

23 Q What was the nature of that relationship?

24 A Underage female.

25 Q How old was this female?

Davis - direct

1 A 16.

2 Q When you were having this relationship with her, how old
3 were you?

4 A 22, 23, one of them. 20 something. I can't remember.

5 Q Did you know at the time you were having this relationship
6 with her that she was underage?

7 A Yes.

8 Q Did you know it was wrong to have that relationship with
9 her?

10 A Yes.

11 Q Did you eventually stop having a relationship with her?

12 A Yes.

13 Q When did you stop this relationship?

14 A '09.

15 Q Why did you stop having the relationship?

16 A She was causing conflict with other females I was messing
17 around with.

18 Q What did you mean she was causing conflict with other
19 females you were messing around with?

20 A Letting them know that me and her was having sex.

21 Q And that was affecting your other relationships?

22 A Yes.

23 Q Mr. Davis, have you been accused of molesting young girls?

24 A Yes.

25 Q What was the nature of those accusations?

Davis - direct

1 A My grandma adopted kids.

2 Q What about the adopted kids? How old were they supposed
3 to be when you allegedly molested them?

4 A They say like 18.

5 Q Do you know how old you were supposed to have been at the
6 time you allegedly molested them?

7 A No.

8 Q Did you ever touch those girls?

9 A No.

10 Q Were you ever arrested on these accusations?

11 A No.

12 Q Have you ever been convicted of anything regarding those
13 accusations?

14 A No.

15 Q Mr. Davis, have you also been accused of rape?

16 A Yes.

17 Q Who accused you of rape?

18 A An inmate at the MCC.

19 Q Was the inmate at the MCC your cellmate?

20 A Yes.

21 Q Did you rape him?

22 A No.

23 Q Did you have sex with him?

24 A Yes.

25 Q Were you interviewed about his allegations?

Davis - direct

1 A Yes.

2 Q When were you interviewed about those rape allegations?

3 A At the MCC.

4 Q Were you interviewed by agents of the FBI?

5 A Yes.

6 Q Did you lie to those FBI agents during that interview?

7 A Yes.

8 Q What did you lie about?

9 A I didn't touch him.

10 Q But you had touched him, correct?

11 A Yes.

12 Q Why did you lie during that interview?

13 A Because the way they came in, they asked me why did I do
14 it, why did I do it. They didn't give me a chance to say
15 nothing else. So I just told them I didn't do nothing.

16 Q Did you decide to tell the truth at some point later?

17 A Yes.

18 Q How soon after that interview did you decide to tell the
19 truth?

20 A A week later.

21 Q What did you do a week later?

22 A Contacted Lieutenant Ewell.

23 THE COURT: Lieutenant Yu?

24 THE WITNESS: Ewell.

25 BY MS. CHURCH:

Davis - direct

1 Q Ewell?

2 THE COURT: Ewell.

3 BY MS. CHURCH:

4 Q Ewell?

5 A Yes.

6 Q You contacted Lieutenant Ewell?

7 A Yes.

8 Q Is he an officer with the MCC?

9 A Yes.

10 Q What did you do to contact Lieutenant Ewell?

11 A Wrote him a cop-out.

12 Q What's a cop-out?

13 A Like a request slip.

14 Q And what did you report in that slip?

15 A I wanted to tell him what really happened.

16 Q Did you tell him what really happened?

17 A Yes.

18 Q Why did you admit to Lieutenant Ewell what really
19 happened?

20 A Because it was either I sit back and not say nothing and
21 get in more trouble or I say something and hope for the
22 better.

23 Q Did you say something or did you tell the truth?

24 A Told the truth.

25 Q What did you tell him?

Davis - direct

1 A That at the lockdown, he told me that he was gay and that
2 he had an easy hustle in jail because he was gay, and I had
3 sex with him.

4 Q Did you have sex with him more than once?

5 A Twice.

6 Q Did you know that it was wrong to have sex at the MCC?

7 A Yes.

8 Q Mr. Davis, I now want to turn and talk more about this
9 case and your role in it, okay.

10 First of all, were you a member of a street gang?

11 A Yes.

12 Q What street gang were you a member of?

13 A New Breed Black Gangster.

14 Q When did you join the New Breed Black Gangster street
15 gang?

16 A 2001, 2000.

17 Q Did you join that gang in a particular area?

18 A Yes.

19 Q What area was that?

20 A West Side of Chicago, K Town.

21 Q What's K Town?

22 A Van Buren and Karlov.

23 Q How did you join the New Breeds at that time?

24 A I was selling drugs and became a member.

25 Q Were you initiated at all into the gang?

Davis - direct

1 A What you mean?

2 Q Were you -- was there any sort of ceremony or beating or
3 anything to join the gang?

4 A No.

5 Q Was it just selling drugs?

6 A Yes.

7 Q How did you first start selling drugs for the New Breeds?

8 A Bostic little brother, Curtis Ellis.

9 Q How did Curtis Ellis get you to start selling drugs?

10 A I was selling drugs somewhere else, and he came and got me
11 and my cousin Gill and told we was going to sell drugs, going
12 to sell drugs in the neighborhood.

13 Q Were you from that neighborhood?

14 A Yes.

15 Q And when you say your cousin Gill, are you referring to
16 Ladonta Gill?

17 A Yes.

18 Q Do you know what his nicknames were?

19 A Bam, Beano.

20 Q Was he a codefendant of yours in this case?

21 A Yes.

22 Q So after Curtis Ellis told you that if you were going to
23 sell drugs, you were going to sell drugs in the neighborhood,
24 what did you do?

25 A Came back to the neighborhood and started selling drugs.

Davis - direct

1 Q What drugs were you selling when you came back to the
2 neighborhood?

3 A Heroin.

4 Q When did you start selling drugs in the neighborhood?

5 A 2001.

6 Q Whose heroin were you selling?

7 A Bostic's.

8 Q How do you know it was his heroin that you were selling?

9 A I just knew what was going on in the neighborhood.

10 Q Before --

11 MR. BRINDLEY: Your Honor, objection. Can I get some
12 foundation as to what that means?

13 THE COURT: You can ask on cross unless Ms. Church
14 asks him.

15 MS. CHURCH: Yes, Judge.

16 BY MS. CHURCH:

17 Q Before you started selling the defendant's drugs, were you
18 also selling drugs for someone else?

19 A Yes.

20 Q Who were you selling drugs for before you were selling the
21 defendant's drugs?

22 A Guy name Dick Cameron.

23 Q Okay. And then after Dick Cameron?

24 A After Dick Cameron, I worked security for Boodro.

25 Q Who is Boodro?

Davis - direct

1 A He had the block before Bird.

2 Q How do you know he had the block before Bird?

3 A Because I knew what was going on. I was from the
4 neighborhood.

5 Q Can you explain how you know what's going on in the
6 neighborhood just from being from the neighborhood?

7 A We know what's going on around you.

8 Q Did you talk to other people?

9 A Yes, I talked to other people.

10 Q Did those people include the people you were selling drugs
11 with?

12 A No.

13 Q How about the people you were selling drugs for?

14 A Yes.

15 Q How do you know you were selling Boodro's drugs?

16 A I was working security for Boodro watching out for the
17 police.

18 Q And how do you watch out for the police?

19 A Stand on the corner. If the police come, you say
20 something.

21 Q So when you said that he controlled the block before Bird,
22 you are referring to the defendant, first of all, as Bird?

23 A Yes.

24 Q How do you know he controlled that block?

25 A Because everybody knew in the neighborhood what's going

Davis - direct

1 on.

2 Q And after a time, did you start selling the defendant's
3 drugs?

4 A Yes.

5 Q How do you know you started selling the defendant's drugs
6 and not Boodro's?

7 A Because once Boodro got killed, he took over the
8 neighborhood.

9 Q Who took --

10 How do you know he took over the neighborhood?

11 A I just knew.

12 Q How long did you sell the defendant's drugs?

13 A Until I got locked up on this case.

14 Q Was that in August 2010?

15 A Yes.

16 Q As part of your cooperation, have you provided information
17 about violence in connection with the New Breeds and in
18 connection with the heroin conspiracy?

19 A Yes.

20 Q While you were selling the defendant's heroin, could you
21 sell other drugs in his area?

22 A No.

23 Q Why not?

24 A Because just couldn't. We's part of a -- you want to call
25 an organization or whatever, but you couldn't -- we wasn't

Davis - direct

1 allowed to sell no other drugs but heroin.

2 Q How do you know you weren't allowed to sell any other
3 drugs but heroin?

4 A Because I knew we couldn't.

5 Q Were there consequences if someone was caught selling
6 someone else's drugs?

7 A Yes.

8 Q What were those consequences?

9 A They get they ass whapped.

10 Q Did you sometimes fight other people who were selling
11 other drugs at that time?

12 A Yes.

13 Q And in February of 2010, did you catch Cornelius Thomas or
14 Bunny selling someone else's drugs in the defendant's
15 territory?

16 A Yes.

17 Q How do you know that those drugs weren't the defendant's?

18 A Because we didn't have none.

19 Q How do you know you didn't have any?

20 A Because everybody was done selling drugs.

21 Q So you didn't have any heroin to sell?

22 A No.

23 Q So how do you know the defendant -- excuse me -- that
24 Cornelius Thomas wasn't selling his drugs?

25 A Because everybody that had the defendant's heroin,

Davis - direct

1 everybody was done, and I knew so nobody would be selling.

2 Q Did you see Cornelius Thomas selling heroin at that time?

3 A Yes.

4 Q What did you do in response?

5 A (Inaudible.)

6 Q Did you tell anybody about what you saw and what you did?

7 A Excuse me?

8 Q Did you tell anybody about what you saw and what you did
9 to Cornelius Thomas?

10 A Yes.

11 Q Who did you tell?

12 A Smooth.

13 Q Why did you tell Smooth?

14 A I was telling him -- Bunny's out here selling drugs and he
15 know he not supposed to do it in, and I told Smooth don't give
16 him nothing else.

17 Q Is Smooth Brandon Richards?

18 A Yes.

19 Q Were there consequences if someone didn't return the
20 correct amount of proceeds or profits from the heroin sales?

21 A Yes, sometimes.

22 Q What were those? How do you know that there were
23 consequences?

24 A 'Cuz my cousin got his arm broke for fucking up some
25 money.

Davis - direct

1 Q And by your cousin, are you referring to Ladonta Gill?

2 A Yes.

3 Q How do you know that he messed up the money?

4 A I just knew he kept coming up short.

5 Q How do you know that?

6 A Because he was telling me.

7 Q So you were having conversations with Ladonta Gill about
8 him coming up short with money?

9 A Yes.

10 Q What happened as a result?

11 A He got his arm broke.

12 Q Do you know how his arm was broken?

13 A With a bat.

14 Q Do you know who broke his arm with a bat?

15 MR. BRINDLEY: Objection, foundation, Judge.

16 THE COURT: Just establish how he knows what his
17 information is.

18 MS. CHURCH: Yes.

19 BY MS. CHURCH:

20 Q How do you know that the defendant -- excuse me -- that
21 Ladonta Gill had his arm broken?

22 A He told me.

23 Q Did he tell you how it was broken?

24 A Yes, with a bat.

25 Q Did he tell you who broke it with a bat?

Davis - direct

1 A Yes, Bird.

2 Q And by Bird, you are referring to the defendant?

3 A Yes.

4 Q In 2007 and 2008, were you still a member of the New
5 Breeds?

6 A Yes.

7 Q Were you still working for the defendant?

8 A Yes.

9 Q Who was in charge of the New Breeds in your area?

10 A Bird.

11 Q How do you know that?

12 A I was a member.

13 Q In 2007 and 2008, were the New Breeds at war with other
14 street gangs?

15 A Yes.

16 Q What do you understand "at war" to mean?

17 A Shooting at each other.

18 Q Were there reasons for shooting at other street gangs?

19 A Yes.

20 Q What would start wars with other street gangs?

21 A Fights.

22 Q And then what would happen as a result of the fights?

23 A Somebody ended up getting shot, somebody come shooting.

24 Q Was there retaliation if someone would get shot?

25 A Yes.

Davis - direct

1 Q What would the retaliation be?

2 A Shooting at the other gang.

3 Q Can you just go out shooting people if you wanted?

4 A No.

5 Q Why not?

6 A Because, like, if something was to happen, we just
7 couldn't go shooting at nobody unless we got the green light
8 from Bird.

9 Q Why did you need the green light from the defendant?

10 A Because somebody might come back shooting, we need to know
11 where the shots came from.

12 Q What does green light mean?

13 A You got to go do what you got to do.

14 Q What does that mean?

15 A You go shoot.

16 Q Did you need his permission or approval before you went
17 out shooting?

18 A Yes.

19 Q Is that what the green light means?

20 A Yes.

21 Q In 2007 and 2008, who were the New Breeds at war with?

22 A 2007, it was the Fours.

23 Q And who are the Fours?

24 THE COURT: The Fours, you said? Okay.

25 THE WITNESS: Yes.

Davis - direct

1 BY MS. CHURCH:

2 Q Who are the Fours?

3 A The Four Corner Hustlers.

4 Q And in 2008 were the New Breeds at war with another street
5 gang?

6 A Yes, the Takers.

7 Q Are they the Undertakers?

8 A Yes.

9 Q At some point did the Undertakers and the Four Corner
10 Hustlers join together?

11 A Yes.

12 Q Against the New Breeds?

13 A Yes.

14 Q Do you know why the New Breeds were at war with the
15 Undertakers and the Four Corner Hustlers?

16 A We was into it with one of the Fours because they tried to
17 run one of our friends over.

18 Q So it started off because one of the members of the Four
19 Corner Hustlers started -- excuse me -- tried to run over a
20 member of the New Breeds or one of your friends?

21 A Yes.

22 Q Who was the friend?

23 A Jason Lewis.

24 Q When did this happen?

25 A 2007.

Davis - direct

1 Q Do you know who the Four was who tried to run over Jason
2 Lewis?

3 A Yes, Little Larry.

4 Q What happened as a result of Little Larry trying to run
5 over Jason?

6 A He got his ass whupped.

7 Q Who got his ass whupped?

8 A Little Larry.

9 Q Who did that?

10 A Lee, Curt, LC and Jason.

11 Q So you said Lee. Does that refer to Lee Floyd?

12 A Yes.

13 Q Curt, does that refer to Curtis Ellis?

14 A Yes.

15 Q LC, does that refer to Charles Coward?

16 A Yes, Cowert.

17 Q Cowert. Is he also sometimes known as Maniac?

18 A Yes.

19 Q And Jason, is that Jason Lewis?

20 A Yes.

21 Q As a result of that, were there shootings?

22 A Yes. Couple days later, LC got shot.

23 Q I want to talk with you about the shootings kind of going
24 in order.

25 First of all, how many shootings have you been a part

Davis - direct

1 of yourself?

2 A Six or seven.

3 Q How many people have you shot?

4 A Two.

5 Q How many people have you killed?

6 A None.

7 Q In how many of those shootings were you a shooter?

8 A Two.

9 Q Let's talk about the first shooting in 2007 or 2008.

10 I want to talk about an individual known as Monk. Do
11 you know who Monk was?

12 A Yes.

13 Q Who is Monk?

14 A He's a Four.

15 Q A Four Corner Hustler?

16 A Yes.

17 Q How do you know that?

18 A I know him from the neighborhood.

19 Q Do you know if he was killed?

20 A No, he wasn't killed; he was just shot.

21 Q Who shot him?

22 A Pee Wee.

23 Q Who is Pee Wee?

24 A A Traveler, a friend.

25 Q So he was a member of the Traveler street gang?

Davis - direct

1 A Yes.

2 Q But he hung out with you and the other New Breeds?

3 A Yes.

4 Q How do you know that Pee Wee shot Monk?

5 A I seen him.

6 Q You were there?

7 A I was at the stop sign. He's on 39 and I was in the 40
8 hundred at the stop sign.

9 Q So you were in the same area and you were able to see the
10 shooting?

11 A Yes.

12 Q Was anyone else there with Pee Wee when he shot Monk?

13 A Yes, Curtis.

14 Q After Monk was shot, was there retaliation against the New
15 Breeds?

16 A Yes.

17 Q What was that retaliation?

18 A Reggie got killed.

19 Q Who was Reggie?

20 A Another friend of ours.

21 Q Do you know how Reggie was killed?

22 A Shot in the head.

23 Q How do you know that?

24 A Because I pulled up on him.

25 Q You pulled up on him, meaning what?

Davis - direct

1 A After they shot him in the head, he kind of hit the pole,
2 and I was just getting off the expressway, and I made it down
3 up to his car and he was shot in the head.

4 Q So he was in his car when he was shot in the head?

5 A Yes.

6 Q Do you know if anyone was with him when he was shot in the
7 head?

8 A Yes.

9 Q How do you know someone was with him?

10 A Because Gill told me who all was with him.

11 Q What did Gill tell you?

12 A It was him, Lil', Ice -- and Reggie in the car.

13 Q What did they do in response to Reggie getting killed?

14 A They jumped out the car and ran.

15 Q After Reggie was killed, did the New Breeds retaliate?

16 A Yes.

17 Q How do you know?

18 A I was there.

19 Q What retaliation did the New Breeds take?

20 A A guy named Casino got killed.

21 Q Casino?

22 A Yes.

23 Q Was he also known as C-Note?

24 A Yes.

25 Q How do you know that he was killed?

Davis - direct

1 A I was the driver.

2 Q Tell us about what happened and when that happened.

3 A It happened like '07, '08, when I got a call from Bird and
4 he asked me where I was. I told him I was in the
5 neighborhood. And he told me to pull up.

6 Q When you said that you were in the neighborhood, what were
7 you referring to?

8 A I was in the area, by the block.

9 Q By the block, are you referring to about the 4000 block of
10 Van Buren?

11 A Yes.

12 Q So when the defendant told you to pull up, what did you
13 understand him to mean?

14 A Pull up in front of 4019.

15 Q What is 4019?

16 A A house where we hung out at.

17 Q And did you pull up to 4019 West Van Buren?

18 A Yes.

19 Q What happened when you pulled up?

20 A Curt jumped in the car with me.

21 Q Curtis Ellis jumped in the car with you?

22 A Yes.

23 Q Do you know why he was jumping in the car with you when
24 you pulled up?

25 A No.

Davis - direct

1 Q Did you later learn?

2 A Yes.

3 Q How did you later learn why he jumped in the car?

4 A When I pulled up, he told me Little Larry is on Lotus and
5 Washington.

6 Q He told you Little Larry was on Lotus and Washington?

7 A Yes.

8 Q And was this the same Little Larry who tried to run over
9 Jason?

10 A Yes.

11 Q So what did you do after learning that Little Larry was on
12 Lotus and Washington?

13 A I drove in there.

14 Q Why were you driving down there?

15 A Going down to kill Little Larry.

16 Q Did you drive down to that area?

17 A Yes.

18 Q What happened when you got to that area?

19 A Little Larry wasn't out there; Casino was out there.

20 Q What did you do in response to seeing Casino out there?

21 A Came around the block and came up Lotus, and I pulled up
22 on Casino. Curtis jumped out the car. Little Shortie was
23 running up like he holding his side like he had a gun.

24 Q What did you mean by Little Shortie?

25 A Little Shortie, a boy, he was running down the block

Davis - direct

1 holding his side like he had a gun. So Curt shot him one
2 time, and Casino was trying to get in the -- and that's when
3 Curt shot, and he got back in the car with me, and we left.

4 Q Did you speed away real fast?

5 A Yes.

6 Q Where did you go after Casino and the boy were shot?

7 A Dropped Curtis back off on the block. I went out South.

8 Q Why did you go down South?

9 A To get rid of the car.

10 Q Did you get rid of the car?

11 A Yes.

12 Q Was there retaliation after Casino was killed?

13 A They came to the shooting. The Fours came back to the
14 shooting. That's about it, but nobody really get hit.

15 Q I want to talk to you about the death of Curtis Ellis.

16 Do you know how Curtis Ellis was killed?

17 A Yes.

18 Q I want to talk about that whole event. Do you know about
19 when he was killed?

20 A Yes.

21 Q When?

22 A August 2008.

23 Q How do you know he was killed?

24 A I got a phone call the next morning.

25 Q Before you got the phone call the next morning, do you

Davis - direct

1 know where Curtis Ellis was the night before?

2 A At the Excalibur.

3 Q How do you know he was at the Excalibur?

4 A I knew they was going to the club.

5 Q Who was going to the club?

6 A Bird and Curt and a couple more guys.

7 Q How do you know they were going to Excalibur?

8 A I didn't know they was going to that club. I just know
9 they was going to the club.

10 Q Did you later find out that they went to Excalibur?

11 A Yes.

12 Q How did you find out that they were at Excalibur?

13 A When Curt got killed, they told me what club they was at.

14 Q Did you have any conversations with Curtis Ellis the night
15 he was killed?

16 A Yes.

17 Q How many conversations did you have with him?

18 A One.

19 Q About what time was that conversation?

20 A One-something in the morning before he got killed.

21 Q What did he say to you and what did you say to him in that
22 conversation?

23 A He called and told me they just smacked the shit out of
24 Tony Allen.

25 Q When he told you that he smacked Tony Allen, did you know

Davis - direct

1 who he was referring to?

2 A Yes.

3 Q How do you know?

4 A He was a basketball player, and he and some other friends
5 of ours had a lawsuit against him from when they supposedly
6 got shot or something. And he thought Curt was this guy named
7 Nigel.

8 And when he came in the bathroom, he told Curt got a
9 nigger snitching and shit, and Curt told him he ain't no
10 snitch and smacked him.

11 Q So was it your understanding that Tony Allen mistook
12 Curtis Ellis for Nigel?

13 A Yes.

14 Q And was it your understanding that Nigel is one of the
15 guys that had the lawsuit against Tony Allen?

16 A Yes.

17 Q And so when Curtis Ellis said that Tony Allen accused him
18 of snitching, what did you understand him to mean?

19 A That he mistook him for Nigel.

20 Q So what did you say after Curtis Ellis told you that he
21 had gotten into this fight with Tony Allen?

22 A I told him the expressway was open, did he need me to make
23 it. I told him I can make it down there in like ten minutes
24 at the most.

25 Q What were you telling him when you said you could make it

Davis - direct

1 down there?

2 A I was going to bring some guns.

3 Q Why were you going to bring some guns?

4 A Because they just got into it.

5 Q What does that mean?

6 A He smacked Tony Allen.

7 Q Had gotten into a fight?

8 A Yes.

9 Q What did Curtis Ellis say in response?

10 A He told me, don't come, he cool.

11 Q So did you go down?

12 A No.

13 Q Was anyone with you that night?

14 A Gill.

15 Q Did you tell Gill what you had heard from Curtis Ellis?

16 A Yes.

17 Q What was the next conversation you had about or with
18 Curtis Ellis?

19 A I didn't.

20 Q So what was the next time you heard about Curtis Ellis?

21 A That morning.

22 Q Who called you, or did you call someone?

23 A I woke up. I had a lot of missed calls.

24 Q What did you do?

25 A I called Lee back.

Davis - direct

1 Q Who is Lee?

2 A Lee Floyd.

3 Q What did you learn in that conversation?

4 A He told me that Curt was dead.

5 Q Did he tell you anything else?

6 A No. When he told me that, I jumped in the car and got to
7 the hospital.

8 Q Why did you go to the hospital?

9 A To see what was going on.

10 Q What did you learn when you got to the hospital?

11 A That Bird was shot five times and Curt was dead.

12 Q Who else was at the hospital with you?

13 A Lee, Gill, Smooth, a lot of people.

14 Q Did you speak with the defendant while he was at the
15 hospital?

16 A Yes.

17 Q What did he say to you while he was at the hospital?

18 A Curt got hit in the head, and he was jumping up and down.

19 He kept telling, go down, and he got them to the hospital.

20 And I asked him who we looking for.

21 Q What did you mean by that?

22 A Who supposed to be responsible for this.

23 Q What did he tell you?

24 A Scoop.

25 Q Did you know who Scoop was?

Davis - direct

1 A At the time, no.

2 Q Did you later learn who Scoop was?

3 A Yes.

4 Q How did you learn who Scoop was?

5 A Because other people that knew who he was telling me who
6 he was.

7 Q And what did you learn from those other people?

8 A That Scoop was on Rice and Laverne.

9 Q What does that mean?

10 A I mean Rice and Lemont. That's the neighborhood -- that's
11 the block he had. That was the block where he was selling
12 drugs.

13 Q And why did you learn that Scoop was responsible for the
14 shooting and the murder?

15 A Because Bird told me he was dealing with Tony Allen.

16 Q So he was with Tony -- you learned that he was with Tony
17 Allen at the club?

18 A Yes.

19 Q Did you speak with the defendant anymore about the
20 shooting at the hospital?

21 A No.

22 Q Did you have later conversations with the defendant about
23 the shooting?

24 A Yes.

25 Q When was the next conversation you had with the defendant

Davis - direct

1 about the shooting?

2 A He signed himself out the hospital.

3 Q Where were you during this conversation?

4 A At his sister's house.

5 Q Which sister is this?

6 A Tiff.

7 Q Who else was present for this conversation?

8 A Lee, Gill, Smooth and Lord.

9 Q Who said what during this conversation?

10 A He just telling -- Bird just told -- and then Scoop and
11 the Takers supposed to get down on them.

12 Q What do you mean by Scoop and the Takers were supposed to
13 get down on them?

14 A They had called the Takers to do the shooting.

15 Q Did you tell the police about this?

16 A Huh?

17 Q Did you tell the police about this?

18 A No.

19 Q Why not?

20 A Wasn't the police business.

21 Q Did you have additional conversations about the shooting
22 and the Undertakers that day?

23 A Yes, 4019.

24 Q And 4019, you are referring to 4019 West Van Buren?

25 A Yes.

Davis - direct

1 Q Who was present during that conversation?

2 A Everybody that was affiliated with us.

3 Q So was the defendant there?

4 A Yes.

5 Q Who else was there?

6 A Me, Gill, Smooth, Lord.

7 Q Lord?

8 A Tommy.

9 Q By Tommy, do you mean Tommy Moore?

10 A Yes.

11 Q Was Nigel there?

12 A Yes.

13 Q Was Twilly or Twon?

14 A Yes.

15 Q What was said during that conversation?

16 A Bird said it was a green light on everybody.

17 Q What did you understand him to mean when he said there's a
18 green light on everybody?

19 A It's time to go to war.

20 Q What do you mean by "it's time to go to war"?

21 A For whoever had something to do with Curt getting killed.

22 Q What were you going to do since you had gotten the green
23 light and you were going to war?

24 A Go out shooting.

25 Q After the defendant gave the green light, what did you do

Davis - direct

1 in response?

2 A I got me a gun.

3 Q You did what?

4 A I got a gun.

5 Q Where did you get a gun from?

6 A 4019.

7 Q After you got the gun from 4019, what did you do?

8 A After I got a gun, I got Bam and Lord and told them to get
9 in the car with me.

10 Q So you got Bam and Lord in the car with you, and Bam is
11 Ladonta Gill?

12 A Yes.

13 Q What did you do when you got in the car?

14 A Before we got in the car, I told Bird that the plates on
15 the car was expiring, and he said, follow me.

16 So he had Tommy and Nigel and Twilly in front of him.
17 And we just started riding.

18 Q So the first night after the defendant got out of the
19 hospital and you had had that conversation at 4019 West Van
20 Buren, where did you go?

21 A We went on Van Buren and Cicero.

22 Q Why did you go to Van Buren and Cicero?

23 A That's where the Takers at.

24 Q And what, if anything, did you do when you got to Van
25 Buren and Cicero?

Davis - direct

1 A Bird had rode to there first. He get the phone and told
2 us that they was by a van. So Bam was in the car with Lord.
3 I told Bam, pull up in front of the van. When he pulled up,
4 jump out shooting -- I'm pulled up behind the van, and I'm
5 going to jump out. When I jumped out, the gun that I had
6 jammed and wouldn't shoot.

7 Q Did you see what Ladonta Gill did?

8 A Yes, he chased somebody down in the hallway.

9 Q Did you see whether anyone was shot?

10 A No.

11 Q What happened after you saw Ladonta Gill chase somebody
12 down the hallway?

13 A One of the guys that was out there had a gun. He shot
14 back. That's when I jumped in the car, and Gill came back
15 down off the porch and jumped in the car and we left.

16 Q Where did you go after the shooting?

17 A Dropped the car over the bridge.

18 Q Over the bridge where?

19 A Like on Flournoy and Kostner.

20 Q On Flournoy and Kostner?

21 A Yes, and left.

22 Q Were there other shootings following Curtis Ellis' death?

23 A Yes, the next day.

24 Q What happened the next day?

25 A Me, Bam -- me, Bam and Lord -- that's when me, Bam, Lord

Davis - direct

1 and Nigel and Twilly was riding with Tommy. We was riding
2 around looking for Scoop.

3 Q Who was riding with you?

4 A Me, Bam and Lord was in the car I was in.

5 Q What were you driving? Were you the driver? Excuse me.

6 A Huh?

7 Q Were you the driver?

8 A Yes.

9 Q What were you driving?

10 A A Dodge Stratus.

11 Q Was there another car that was following you?

12 A Yes.

13 Q Who was in that car?

14 A Twilly, Tommy and Nigel.

15 Q Who was driving that car?

16 A Tommy.

17 Q How do you know he was driving the car?

18 A I seen him get in in the driver's seat when I jumped in
19 the Stratus.

20 Q Do you know why Tommy was in the car following you?

21 A Yes, because the plates was expired.

22 Q What does that mean?

23 A Both the tags on the license plates was expiring, and the
24 police would have ran them, they would have pulled me over.

25 Q So what did you do in response to knowing that your plates

Davis - direct

1 were expired?

2 A I had them tail me.

3 Q Where did you go?

4 A Just riding around, riding around until we see somebody.

5 Q Who were you looking for?

6 A Takers.

7 Q Did you know which Takers you were looking for?

8 A Yes.

9 Q How did you know?

10 A Bird named a couple of them.

11 Q Who did Bird name?

12 A Bambi, Bud, some guy named Ramon, Scoop.

13 Q Did you know all these people by sight?

14 A No.

15 Q So as you're driving around, how did you know who to look
16 for?

17 A Because Lord's in the car with me. He knew them.

18 Q At some point did Lord see someone that he recognized?

19 A Yes.

20 Q How do you know?

21 A Because he pointed him out.

22 Q What did he say?

23 A There go D-Low.

24 Q Did you know who D-Low was?

25 A No, not at the time.

Davis - direct

1 Q Did you ask Twon who D-Low was?

2 A Yes.

3 Q What did he say in response?

4 A That's Scoop cousin.

5 Q What did you do in response to seeing D-Low?

6 A I bust a U-turn on Madison. I told him like, man, I
7 pulled up on the side, make sure it's him.

8 Q Why did you tell Twon to make sure it was him?

9 A Because I didn't want to get the wrong person.

10 Q What did he say?

11 A I caught him at the light on Central and Washington. I
12 pulled on the side of him. And Twon say, yeah, that's him.

13 Q So what did you do in response to Twon saying, that's him?

14 A I followed him until he got out the car.

15 Q Until D-Low got out of the car?

16 A Yes.

17 Q Where did he get out of his car?

18 A Gas station on Laramie and Chicago Avenue.

19 Q What did you do when he got out of the car?

20 A I pulled on the side of him.

21 Q Why did you pull on the side of him?

22 A So we could get him.

23 Q What happened after you pulled alongside of his car?

24 A Pulled on the side of the car and he was in the gas
25 station. When he came in, I told Bam, go on ahead.

Davis - direct

1 Q What did you mean by "go on ahead"?

2 A Go ahead and park, go ahead and shoot.

3 Q What, if anything, did Gill do in response to that?

4 A He got out the car and he shot him twice.

5 Q Did you see Ladonta Gill shoot D-Low?

6 A Yes.

7 Q Did he die?

8 A Yes.

9 Q Were you able to see that from where you were?

10 A Yes.

11 Q What happened after he shot -- after Ladonta Gill shot and
12 killed D-Low?

13 A He got back in the car, and we left.

14 Q What happened to the gun?

15 A Took it out. Right after the murder, I took the gun to
16 Poochie house.

17 Q Who is Poochie?

18 A Friend of our's sister.

19 Q Why did you take it to her house?

20 A Because she was close by.

21 Q Did you later get the gun?

22 A Yes.

23 Q What did you do with the gun when you went back to get it?

24 A Took it down South.

25 Q Why did you take it out South?

Davis - direct

1 A To exchange it for another gun.

2 Q Did you get another gun?

3 A Yes.

4 Q Was there another shooting after D-Low's murder?

5 A Yes.

6 Q When was the next shooting?

7 A Couple days later.

8 Q What happened with that shooting?

9 A Somebody called Bird phone saying Bambi and some Takers
10 supposed to have been up there on Madison and Kostner at the
11 mini-mart, so he told --

12 Q How do you know that the defendant was told this?

13 A I was standing on the porch with him.

14 Q You were standing on the porch with the defendant?

15 A Yes.

16 Q What did he say to you after getting this phone call?

17 A He's telling me that the place supposed to been on
18 Madison.

19 Q What did you do in response?

20 A He told -- D-Mak was driving. Tommy and Bam off in the
21 back, and he told me to pull up in front.

22 Q Who is D-Mak?

23 A Another friend of ours.

24 Q So what was your job?

25 A I supposed to pull in front, but just a little bit down

Davis - direct

1 from the mini-mart, so when they done with the shooting, they
2 could run to my car.

3 Q Was anyone with you?

4 A Yes.

5 Q Who was with you?

6 A Bunny.

7 Q Who is Bunny?

8 A Codefendant.

9 Q Is he Cornelius Thomas?

10 A Yes.

11 Q Did you follow the defendant's instructions?

12 A Yes.

13 Q What did you do?

14 A I pulled a little bit down past the mini-mart.

15 Q What, if anything, did you see happen after you pulled in
16 front of the mini-mart?

17 A Bam and Tommy come up the vacant lot from the alley, and
18 they started shooting. And after they got through shooting,
19 they tried to run to the car I was at. But when they ran to
20 the car, I was sitting there, and the police pulled in front
21 of me and jumped out the car shooting at Gill and Moore.

22 Q So you saw the police come out and start shooting at Gill
23 and Tommy Moore?

24 A Yes. They blocked me off and they was trying to come to
25 the car I was at.

Davis - direct

1 Q What did you do?

2 A Once they jumped on the sidewalk, I pulled off.

3 Q Why did you pull off?

4 A Because they just blocked me off. They knew I was their
5 getaway car.

6 Q Were there any other shootings after this one?

7 A Yes.

8 Q What was the next shooting that you were involved in?

9 A At a party.

10 Q What happened? When was the party?

11 A I think it was like July 2008.

12 Q And so was the party before or after Curtis Ellis was
13 killed?

14 A Before.

15 Q Okay. So this was before Curtis Ellis was killed. What
16 happened at the party?

17 A I was basically there drunk, and I was sitting on the
18 garbage can, and I had a gun on my side, and Bird knew I was
19 drunk. So he had somebody come get the gun from me.

20 Q How do you know that the defendant knew you were drunk and
21 told someone to get the gun from you?

22 A I was sitting on the garbage can with my head down, and he
23 told them get the gun from me.

24 Q What happened?

25 A So I passed the gun to Rock.

Davis - direct

1 Q Who is Rock?

2 A Christopher Hunter.

3 Q Hunter?

4 A Yes. And I was still sitting on the garbage can. I
5 overheard Curt talking to this one guy sitting in the car, and
6 he told him -- get my shit back.

7 Q He said what?

8 A Curt told him he had to get my shit back, but the whole
9 time Curt was playing with him, but I didn't know this. When
10 I look up, Curt had his gun out and Lord had his gun out.

11 Q So what happened?

12 A And I went to Rock and took the gun back from Rock that I
13 came to the party with, and I started shooting in the car.

14 Q And what happened after you started shooting your gun?

15 A He got shot in the stomach.

16 Q Did he live?

17 A Yes.

18 Q Did you know who this guy was that you shot in the
19 stomach?

20 A At the time, no.

21 Q Did you later learn who it was?

22 A Yes.

23 Q How did you learn?

24 A I was buying weed from him.

25 Q What's his name?

Davis - direct

1 A Cord.

2 Q Cord?

3 A Yes.

4 Q Following Curtis Ellis' murder and those three shootings
5 that we just talked about before the shooting at the party,
6 were there other shootings against the gangs you were at war
7 with?

8 A Yes.

9 Q What was the next shooting?

10 A Weebo.

11 Q Who is Weebo?

12 A Four.

13 Q He's a Four Corner Hustler?

14 A Yes.

15 Q Tell me about his shooting. Were you there?

16 A Yes.

17 Q When was the shooting?

18 A '09.

19 Q Where was the shooting?

20 A End of '08, beginning of '09, one of them.

21 Q So was it during the winter?

22 A It was cold outside, yes.

23 Q Tell us about what happened with the shooting and Weebo.

24 A Bird told us that Weebo was sitting on Washington and
25 Cicero.

Davis - direct

1 Q What did you understand the defendant to mean when he was
2 telling you that he was sitting out there?

3 A Supposed to sitting in the van and he's telling us go
4 catch up with Weebo.

5 Q Why would you go catch up with Weebo?

6 A Because he's a Four and we was at -- with the Fours at the
7 time.

8 THE COURT: He was a Four?

9 THE WITNESS: Yes.

10 THE COURT: Okay.

11 BY MS. CHURCH:

12 Q So what did you do in response to the defendant telling
13 you where Weebo was located?

14 A LC rode down there.

15 Q So you drove to that area with LC?

16 A Yes.

17 Q Is LC Charles Cowert?

18 A Yes.

19 Q What happened when you got there?

20 A At first we rode past him and we didn't see him. And then
21 Bird came through there and he like, man, he sitting right
22 here in this white mini-van.

23 Q How do you know the defendant said that?

24 A Because he called the phone.

25 Q He called you?

Davis - direct

1 A Yes.

2 Q And after the defendant told you where Weebo was, what did
3 you do?

4 A I bust a U-turn and I pulled up on the side of him.

5 Q What happened when you pulled alongside of Weebo?

6 A LC opened up the door and started shooting in the van.

7 Q What happened?

8 A He got hit a couple of times.

9 Q After Weebo was hit a couple times, what did you do?

10 A Went back to the neighborhood.

11 Q Did you do anything with the gun?

12 A No.

13 Q Were you involved in a shooting in the winter of 2008?

14 Were you involved in the shooting of Stanley?

15 A Oh, yeah.

16 Q Who is Stanley?

17 A He work for Scoop.

18 Q Is Scoop the guy who was with Tony Allen at Excalibur?

19 A Yes.

20 Q How do you know he worked with Scoop?

21 A I went to school with Stanley.

22 Q What happened to Stanley?

23 A Bird told us that they was on the porch. He didn't say no
24 names; he just say he was sitting on the porch, nigger's on
25 the porch. Go do that.

Davis - direct

1 Q What did you understand the defendant to mean?

2 A Go through and shoot the porch up.

3 Q Did you understand why you were going to shot the porch
4 up?

5 A Yes.

6 Q Why?

7 A Because they worked for Scoop.

8 Q What did you do after the defendant told you that they
9 were on the porch?

10 A We went through there.

11 Q Was anyone with you?

12 A Me, Smooth and Lord.

13 Q What happened when you --

14 Did you go to that area?

15 A Yes.

16 Q And what happened when you got there?

17 A I jumped out the car and shoot him.

18 Q Was anyone shot?

19 A Yes.

20 Q Who?

21 A Stanley.

22 Q Did he die?

23 A No.

24 Q Did the defendant ever have you go shooting on the South
25 Side?

Davis - direct

1 A Yes.

2 Q When did he have you go shooting on the South Side?

3 A End of August, beginning of September.

4 Q Of what year?

5 A '08.

6 Q What happened with that shooting?

7 A His cousin was into it with somebody out there.

8 Q Whose cousin was into it?

9 A Bird's cousin.

10 Q And by into it with someone out there, what do you mean by
11 that?

12 A They weren't getting along. Something was going on. I
13 really didn't know.

14 Q Did it matter to you what was going on?

15 A No.

16 Q So what did the defendant tell you?

17 A He called my phone and told me to grab Lord and come on
18 out South.

19 Q What did you do?

20 A I grabbed Lord and we jumped on the e-way and went down
21 South.

22 Q Where did you go?

23 A I think it was 71st and Paulina.

24 Q What did you do when you got there?

25 A His cousin gave us a gun and told he needed us to take

Davis - direct

1 care of something for him.

2 Q What did you understand him to mean when he gave you the
3 gun and said take care of something for him?

4 A He was going to kill somebody.

5 Q Did you know who you were going to kill?

6 A No.

7 Q Did you know why you were going to kill him?

8 A No.

9 Q Did it matter?

10 A No.

11 Q What did you do?

12 A At first I looked at Bird like, man, this ain't got
13 nothing to do with us.

14 Q Why did you say that to the defendant?

15 A Because at the time we were just at war with people out
16 west, the gangs out west. And he just like, man, going down
17 there real quick.

18 Q So what did you do?

19 A Pulled off on 71st and Oakley.

20 Q What happened when you pulled off there?

21 A I had the phone, told them, like, man, go through there
22 and see if there's a bitch out here.

23 Q I'm sorry. Can you repeat that? I couldn't understand
24 you.

25 A I had the phone, told them ride through there and see if

Davis - direct

1 his bitch out here, referring to the nigger they was looking
2 for.

3 Q Why did you --

4 Did you tell this to the defendant?

5 A Yes.

6 Q Why did you say it to him?

7 A Because it's a phone I had, and he was in the car with his
8 cousin.

9 Q What did the defendant say?

10 A They rode through there and he described what he had on.

11 Q So after the defendant described what this person had on,
12 what did you do?

13 A I pulled on the side of him.

14 Q What happened when you had pulled on the side of him?

15 A I went down on -- Lord started shooting.

16 Q What happened when Lord started shooting?

17 A I sat down, let him get off a couple of shots. Then I
18 pulled off.

19 Q Do you know what happened to that person?

20 A Yes. He died.

21 Q Could you see that from where you were?

22 A No.

23 Q Did you learn about it later?

24 A Yes.

25 Q How did you learn about it later?

Davis - direct

1 A His cousin told me.

2 Q Do you know the defendant's cousin's name?

3 A I don't know his real name. I just know him by Short.

4 Q What happened to the gun?

5 A I gave it back to Short.

6 Q After you gave the gun back to Short, what, if anything,
7 happened?

8 A Excuse me?

9 Q Did anything happen after you gave the gun back to Short
10 in connection with this shooting?

11 A Yes. He supposed to ran in and where everybody was and
12 got some money out of his house.

13 Q Were you one of the defendant's shooters?

14 A Yes.

15 Q Do you know if the defendant had other shooters?

16 A Yes.

17 Q Have you talked about some of those other shooters in your
18 testimony today?

19 A Yes.

20 Q How do you know those other shooters were the defendant's
21 shooters?

22 A Sometimes I was with them.

23 Q I want to talk for a minute about Pee Wee. Were there two
24 Pee Wees?

25 A Yes.

Davis - direct

1 Q And what -- was there one Pee Wee that was with one of
2 your friends, the Traveler?

3 A Yes.

4 Q Who was the other Pee Wee?

5 A Michael Moore cousin.

6 Q Who was the Pee Wee who was involved with the shooting at
7 a funeral?

8 A I saw Pee Wee.

9 Q Does he have other nicknames?

10 A Weedy.

11 Q Weedy.

12 MR. BRINDLEY: What was the name? I'm sorry.

13 THE WITNESS: Weedy.

14 BY MS. CHURCH:

15 Q Do you know his real name?

16 A No.

17 Q How do you know that Pee Wee or Weedy was a shooter for
18 the defendant?

19 A Sometimes he told me. I just knew.

20 Q Do you know if Pee Wee was involved in a shooting at a
21 funeral?

22 A Yes.

23 Q How do you know?

24 A He was telling me about it.

25 Q When did you have this conversation with him?

Davis - direct

1 A A little bit after this guy named 450 had died.

2 Q Who is 450?

3 A He's a Taker.

4 Q How do you know that 450 died?

5 A It's just word around the neighborhood.

6 Q Do you know who 450 was?

7 A No.

8 Q What did Pee Wee tell you about 450?

9 A They went to the funeral. Bud supposed to be at the
10 funeral. They went through there.

11 Q Who is Bud?

12 A Taker.

13 Q Why did Pee Wee go to see Bud at the funeral?

14 A Because he's bragging about when Curt got killed, he was
15 bragging to them that that was his work.

16 Q So what did Pee Wee do in response?

17 A Shot the funeral up.

18 Q Did you have a conversation with Brandon Richards in 2010
19 about individuals wearing 450 shirts?

20 A Yes.

21 Q What was the nature of those conversations?

22 A He was at a movie theater somewhere downtown, and he
23 called me -- like four or five people in there with 450 shirts
24 on.

25 Q What did you understand him to mean that there were four

Davis - direct

1 or five people there with 450 shirts on?

2 A They had to be some type of connection with the Takers.

3 They had the shirt on.

4 Q Did you understand why Brandon Richards was calling you?

5 A Yes.

6 Q What was your understanding of why he was calling you?

7 A Just in case something happening, I need to get a gun and
8 get down there where he at to protect him.

9 Q Did you end up going to get a gun and protecting him?

10 A No.

11 Q I'm going to talk with you for a minute about Lee Floyd.

12 You mentioned that you knew him. How long did you know Lee
13 Floyd?

14 A It was Shorty.

15 Q So how did you know him?

16 A He stayed on Gladys and Karlov.

17 Q Was he ever involved in the heroin dealing for the
18 defendant?

19 A Yes.

20 Q How do you know?

21 A Because I knew he used to -- like when it's time for them
22 to go sit down and shake the heroin, he had me go get the kit.

23 Q What do you mean by he would have you go get the kit?

24 A Some aluminum foil.

25 Q You were supposed to get aluminum foil?

Davis - direct

1 A Yes, and some Dormin pills.

2 Q And some Dormin pills?

3 A Yes.

4 Q What was the use of the aluminum foil?

5 A To mix the heroin.

6 Q What was the use of the Dormin?

7 A That's what they mix with the heroin.

8 Q So would you go get the kit when he would tell you to?

9 A Yes.

10 Q What would you do with it once you got it?

11 A I bring it back to the block and give it to him.

12 Q Was Lee Floyd killed in June of 2009?

13 A Yes.

14 Q How do you know?

15 A He was at a barbecue. I was there.

16 Q You were at that barbecue?

17 A Yes.

18 Q Was that barbecue on Father's Day?

19 A Yes.

20 Q What was the purpose of the barbecue?

21 A For Boodro.

22 Q And who is Boodro?

23 A He was the person who's got the block before Bird had it.

24 Q So why was the barbecue for Boodro, because he was already
25 dead, right?

Davis - direct

1 A Yes.

2 Q So why was the barbecue for Boodro?

3 A Just something he do every year.

4 Q Who was hosting the barbecue?

5 A Bird.

6 Q How do you know the defendant was hosting the barbecue?

7 A Because he told them that they was barbecuing down there
8 and come on down there.

9 Q So when he told you there was barbecue and to come on
10 down, you understood that he was the one hosting?

11 A Yes.

12 Q So you went to the barbecue, right?

13 A Yes.

14 Q How many people were there?

15 A Like 70, 80 people, probably more.

16 Q Where was the barbecue?

17 A Back of Melody school.

18 Q Was it in the playground of Melody school?

19 A Yes.

20 Q Who was there?

21 A Everybody.

22 Q So give us some names.

23 A Lee, Smooth, LC, Pee Wee, Bird, Lee.

24 Q So what happened at that barbecue that caused Lee Floyd to
25 get killed?

Davis - direct

1 A When it all kicked off, I went back to Elston in front of
2 my grandma's house because she had stayed across the street.
3 And my understanding, some female supposed have been up to my
4 -- Chief Braman was on his way home, and he pulled -- to take
5 over the neighborhood.

6 Q Hold on there for a second. So this is your understanding
7 of what happened?

8 A Yes.

9 Q How did you get this understanding?

10 A From Tommy, and Pee Wee was telling me, LC was telling me
11 what happened.

12 Q So when you were referring to Tommy told you what
13 happened, is that Tommy Moore?

14 A Yes.

15 Q And LC is Charles Cowert?

16 A Yes.

17 Q And Pee Wee is the same Pee Wee we were just talking
18 about?

19 A Yes.

20 Q So what did they tell you happened at the barbecue?

21 A That they was back there -- Chief Braman was to come home.

22 THE REPORTER: I'm sorry.

23 THE WITNESS: They said Chief Braman was supposed to
24 come home.

25 BY MS. CHURCH:

Davis - direct

1 Q That Chief Braman was supposed to come home?

2 A Yes.

3 Q What does that mean?

4 A He's getting out of jail.

5 Q And that's his name?

6 A Braman.

7 Q Braman. He's supposed to be coming home from where?

8 A From jail, and he supposed to take over our neighborhood
9 or whatever.

10 Q What do you understand that to mean?

11 A Supposed to try to take over where we was.

12 Q Take over what?

13 A The block.

14 Q And take over the block, meaning what?

15 A He was going to try to put some drugs out there.

16 Q So what happened after these girls were saying this?

17 A After that I say Bird told them go ahead on, we ain't know
18 none of that today.

19 Q So the defendant told those girls to go home?

20 A Yes.

21 Q And then what happened?

22 A LC got to smacking them up, and they started fighting with
23 the girls and they boyfriend, one of they boyfriends out
24 there.

25 Q What happened once they got into fighting with the girls

Davis - direct

1 and one of their boyfriends?

2 A They's back to school fighting him. He came running from
3 back there.

4 Q Who came running from back there?

5 A One of the girl's boyfriend.

6 Q What happened when he came running from back there?

7 A I seen him running from back there, I knew something was
8 going on. He trying to run ahead to Keeler to go to the
9 bridge. I also get to chase him.

10 Q Why were you going to chase him?

11 A Help him catch him.

12 Q What happened?

13 A Then somebody got to shooting and I got out.

14 Q Did you see who was shooting?

15 A I seen Little Kevo shoot first.

16 THE REPORTER: Who?

17 THE WITNESS: This guy named Kevo.

18 BY MS. CHURCH:

19 Q Little Kevo?

20 A Yes.

21 And all the other shots, I don't know where they came
22 from.

23 Q What happened as a result of the shooting?

24 A He came walking back. Somebody hit.

25 Q What happened?

Davis - direct

1 A Bird took him to the hospital, and he died at the
2 hospital.

3 Q Did he ever tell the police what happened?

4 A No.

5 Q Did you tell the police what happened in any of these
6 shootings before you came in in this case?

7 A No.

8 Q Why not?

9 A Because I just didn't.

10 Q I want to turn your attention to March of 2010.

11 Are you familiar with an individual who went by the
12 street name of Reggie Lord?

13 A Yes.

14 Q How are you familiar with him?

15 THE COURT: Who?

16 MS. CHURCH: Reggie Lord.

17 THE COURT: Thanks.

18 THE WITNESS: He was hustling with us.

19 BY MS. CHURCH:

20 Q What do you mean by he was hustling with you?

21 A He was selling drugs with us.

22 Q What, if anything, happened to Reggie Lord that time?

23 A He got jumped by the Fours.

24 Q When you say he got jumped by the Fours, what do you mean?

25 A The Fours off Jackson and Keeler, we got into a fight

Davis - direct

1 with.

2 Q Do you know why he got into a fight with the Four Corner
3 Hustlers off of Jackson and Keeler?

4 A They jumped on one of them a couple days before.

5 Q So he had gotten into a fight with one of them a few days
6 before?

7 A Yes.

8 Q Do you know why he got into a fight with them a few days
9 before?

10 A No.

11 Q So what happened the day that he was jumped?

12 A We was walking in the neighborhood, and one of the Fours
13 that I was locked up with, he was calling me. I stopped to
14 see what he wanted. And he was telling that some of our guys
15 supposed to jump one of their guys.

16 Q What did you say?

17 A I told him I ain't know nothing about it.

18 Then while I'm talking to him, they just got coming
19 up running off the porch rushing us.

20 Q Where were you at the time they came rushing off the
21 porch?

22 A On Jackson and Keeler.

23 Q So were you on their block?

24 A Yes.

25 Q Why were you around their block?

Davis - direct

1 A We had nothing to do in the neighborhood. We just walking
2 around.

3 Q So what happened when they came off the porch at you guys?

4 A Me, Little Man and Reggie.

5 Q Who is little man?

6 A Keshawn Roberts.

7 Q Did he also work with you?

8 A Yes.

9 Q Did he pass out packs of heroin to him?

10 A Yes.

11 Q So what happened when they came rushing off the porch at
12 you guys?

13 A I pushed Little Man against the church. There was a
14 church on the corner. I pushed Little Man against the church
15 and put my back on Little Man. We just got to fighting.

16 Q What happened as a result of the fight?

17 A Reggie Lord had to go to the hospital.

18 Q Did you go and retaliate after Reggie went to the
19 hospital?

20 A No.

21 Q Were you planning to?

22 A Yes.

23 Q Did you talk about what happened with anyone?

24 A Yes.

25 Q Who did you talk about it with?

Davis - direct

1 A Smooth.

2 Q In person or over the phone?

3 A Over the phone.

4 Q What did you tell him in that phone call?

5 A I told him I needed a gym shoe.

6 Q What do you mean by a gym shoe?

7 A A gun.

8 Q What did he say?

9 A He told me get the seven from Ray.

10 Q To get the seven from Ray?

11 A Yes.

12 Q What is the seven?

13 A .357.

14 Q Is that a gun?

15 A Yes.

16 Q Who's Ray?

17 A Raynard.

18 Q What did you do after Richards told you to get the gun
19 from Raynard?

20 A I called him back because Ray told me wasn't no bullets in
21 there.

22 Q So what did you do after Ray told you there were no
23 bullets in the gun?

24 A I called Smooth back and let him know there no bullets in
25 there.

Davis - direct

1 Q Do you remember what you called the bullets?

2 A Shoestrings.

3 Q Why do you call bullets shoestrings?

4 A It's what I -- just trying to be slick, say something over
5 the phone.

6 Q What was his response?

7 A And he told me, don't call me back.

8 Q Did he call you back?

9 A Yes.

10 Q What did he say to you and what did you say to him in that
11 next conversation?

12 A He told him Big Guy say, I say don't need no gun, go back
13 over there and whup they ass.

14 Q Who did you understand him to mean when he said "big guy"?

15 A Bird.

16 Q And when Bird told you that big guy said he didn't need a
17 gun, what did you understand him to mean?

18 A Go back over there and whup they ass.

19 Q What about the gun?

20 A Need none. He said we don't need none for them.

21 Q So based on what Richards told you, were you going to go
22 use a gun?

23 A Excuse me?

24 Q Based on what Richards told you, were you going to go use
25 a gun?

Davis - direct

1 A (Inaudible.)

2 Q And then after he told you that big guy, the defendant,
3 told you not to, were you going to still use a gun?

4 A No.

5 Q Why not?

6 A Because I know I couldn't go get -- I know I couldn't go
7 over there and shoot.

8 Q Why not?

9 A Because he told me no, won't need no gun.

10 MS. CHURCH: May I have a moment, your Honor?

11 THE COURT: Sure.

12 (Brief interruption.)

13 MS. CHURCH: Your Honor, at this time we have no
14 further questions, but we, I guess, need a sidebar.

15 THE COURT: Okay.

16 (The following proceedings were had at sidebar:)

17 THE COURT: Repeat what you just said. You were
18 advised that there were people in the courtroom taping.

19 MS. CHURCH: Videotaping.

20 THE COURT: I asked if the marshals had seen it, and
21 that's why they were taking -- I saw them taking people out.

22 MS. BEST: Yes. We received notice that another
23 employee from the U.S. attorney's office had seen the
24 videotaping, contacted the marshals, and then we reached out
25 to the marshals, and they have been taking people out to

Davis - direct

1 interview them. I think they have confiscated them, the
2 people's telephones, during the process. And I think there's
3 still a question as to whether other individuals who were
4 involved still need to be interviewed, but it seems like
5 there's multiple people who were videotaping at least during
6 the early part of the hearing.

7 THE COURT: Okay. What do you want me to do?

8 MS. BIESENTHAL: They have requested, I believe, to
9 speak to you so that --

10 THE COURT: They being the marshals?

11 MS. BEST: The marshals would like to make an
12 announcement.

13 MS. BIESENTHAL: So either you or them can make an
14 announcement to the individuals in the courtroom.

15 THE COURT: In other words, read the big, fat sign
16 before you come in the room?

17 MS. BIESENTHAL: Yes.

18 THE COURT: Okay. Sure, I'm happy to do that.

19 Are you done?

20 MS. CHURCH: Yes.

21 THE COURT: So we're going to break for lunch now. I
22 have to take a plea at 1:30, so we're going to start about ten
23 minutes to 2:00.

24 So you have got two other people?

25 MS. CHURCH: They're much faster.

Davis - direct

1 THE COURT: That was going to be my question: Is the
2 direct longer, shorter? Okay.

3 All right. So we'll break now. We'll come back.
4 You can do your cross and kind of go on from there.

5 I will make an announcement before we stop and when
6 we start up again and maybe at various other points, too.
7 Maybe I should put a sign on my head saying "don't tape."

8 MS. CHURCH: Judge, is it all right if the witnesses
9 stay and have lunch in the jury room rather than being brought
10 back up?

11 THE COURT: Yes, that's fine. All right.

12 MR. BRINDLEY: Thank you, your Honor.

13 (The following proceedings were had in open court:)

14 THE COURT: Okay. We're going to break for lunch in
15 a second. I just want to say to the other people in the
16 courtroom, the law prohibits recording, audio recording or
17 video recording, whatever device you're using, a cell or
18 anything else, what happens in the courtroom. There's a very
19 big sign that you can't miss coming in the door that says
20 that. Anybody who is observed recording anything, it's going
21 to be confiscated from you. You're going to be removed from
22 the courtroom. So read the sign before you come in.

23 And I guess what I would suggest is that anybody who
24 is here who is talking to anybody else, tell them, too, that
25 it can't happen. That's apparently why people have been

1 pulled out of the courtroom while we've been going on here.

2 We're going to break now. We're going to resume with
3 this case. It's going to be about ten minutes to 2:00. I've
4 got another thing to do at 1:30. So see you then.

5 (The proceedings were adjourned until 2:00 p.m. of
6 this same day and date.)

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Docket No. 10 CR 673-1
)	
vs.)	
)	
DANA BOSTIC,)	Chicago, Illinois
)	August 2, 2012
Defendant.)	2:00 p.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MATTHEW F. KENNELLY

APPEARANCES:

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Also Present:	MS. MEREDITH CLIFTON
	U.S. Probation

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LAURA M. BRENNAN - Official Court Reporter
219 South Dearborn Street - Room 2102
Chicago, Illinois 60604
(312) 435-5785

Davis - cross

1 (The following proceedings were had in open court:)

2 THE CLERK: 10 CR 673, USA v. Bostic.

3 THE COURT: All right, we have got the same lawyers.

4 Mr. Bostic is present, as is the probation officer.

5 Just to sort of remind everybody, it's illegal to
6 record anything, take pictures. Audio record, video record or
7 any type of photography, it's illegal in the courtroom, and
8 something will happen if you do it.

9 All right. We're ready to resume. Mr. Brindley, you
10 can go ahead.

11 MR. BRINDLEY: Yes, your Honor. Thank you.

12 THE COURT: Do you understand you're still under
13 oath?

14 THE WITNESS: Yes, sir.

15 MAURICE DAVIS, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN

16 CROSS EXAMINATION

17 BY MR. BRINDLEY:

18 Q Mr. Davis, if I heard you correctly during the questioning
19 from the government attorney, you said that what you have to
20 do for your cooperation, the key to that is you tell the whole
21 and complete truth, is that right?

22 A Yes.

23 Q And if you don't tell the whole and the complete truth
24 during your cooperation with the government, then you lose the
25 deal, is that what you said, or something like that?

Davis - cross

1 A Yes.

2 Q Okay. And that is, if I understood you correctly, why
3 you're telling the truth now, so you won't lose the deal,
4 right?

5 A Yes.

6 Q Because if you lie while you're trying to cooperate, no
7 deal, is that your understanding?

8 A Yes.

9 Q All right. Now, you first met with agents and United
10 States attorneys to give them information and begin attempting
11 to cooperate back in December of 2010.

12 That was the first time you met them, right?

13 A Yes.

14 Q Is that a yes, sir?

15 A Yes.

16 Q Okay. And when you met them in December of 2010, they
17 told you that you needed to tell them the truth, didn't they?

18 A Yes.

19 Q U.S. attorneys told you, you have got to be honest and
20 tell us the whole truth to cooperate, right?

21 A Yes.

22 Q And agents, federal agents, who were there, they told you,
23 you have got to tell the whole truth, right?

24 A Yes.

25 Q And the whole purpose of that meeting in December of 2010

Davis - cross

1 was for you to begin the process of talking to them and
2 attempting to cooperate to help yourself, right?

3 A Yes.

4 Q And you told them that you would tell the truth, didn't
5 you?

6 A Yes.

7 Q You promised them that you would be wholly honest, didn't
8 you?

9 A Yes.

10 Q And then after you promised them that you were going to be
11 honest with them on December 22nd, you started making
12 statements to them, right?

13 A Yes.

14 Q You made statements about drug dealing, right?

15 A Yes.

16 Q Made statements about guns, right?

17 A Yes.

18 Q You made statements about Dana Bostic, correct?

19 A Yes.

20 Q And as you admitted during the sentencing hearing for
21 Mr. Gill when you testified, everything you said on
22 December 22nd during that first meeting, it was all a lie,
23 right?

24 A Yes.

25 Q Everything you said to the government before August 25th,

Davis - cross

1 just like you said last time you were under oath in this
2 courtroom, everything you said before that was a lie, right?

3 A Yes.

4 Q So you lied about drugs and drug dealing, right?

5 A About everything in the first proffer.

6 Q Okay. So I want to talk about some specific things.

7 You talked about drug dealing during that first
8 meeting in December, right?

9 A Yes.

10 Q After promising to tell the truth, right?

11 A Right.

12 Q And you lied about drug dealing, right?

13 A Yes.

14 Q And you lied about guns, right?

15 A Yes.

16 Q You talked about Dana Bostic during that first meeting in
17 December, right?

18 A Yes.

19 Q You lied about him, right?

20 A Yes.

21 Q Now, wait a minute. You just testified under oath a
22 moment ago that you lied about everything on the December 22nd
23 meeting, right?

24 A Yes, not totally everything. I lied about when they got
25 to talking about the guns and the drugs.

Davis - cross

1 Q Wait a minute. Wait a minute, sir. You testified at a
2 hearing at the sentencing of Ladonta Gill, right?

3 A Yes.

4 Q And at that hearing, you took an oath, right?

5 A Yes.

6 Q You swore that you would tell the truth, right?

7 A Yes.

8 Q And to every question that you were asked, you swore that
9 you were going to tell the truth in response, correct?

10 A Yes.

11 Q And isn't it true, sir, that during that hearing when you
12 testified under oath, you were asked a question, everything
13 you told them or told the agents before August 25th was a lie?
14 Do you remember that question?

15 A Yes.

16 Q And you said yes, right?

17 A Yes.

18 Q So when you were asked whether everything was a lie last
19 time you were under oath, the answer was yes, right?

20 A Yes.

21 Q Now, you just told us here a moment ago today that some of
22 the stuff was true, right?

23 A The only thing about Dana Bostic, yes, it was true. I
24 worked for him. That's something that they knew.

25 Q Then the answer to my question, and try just to listen to

Davis - cross

1 what I ask and answer the best you can -- the answer to my
2 question is now you're saying that some of the things you told
3 them were true, right?

4 A Yes.

5 Q Okay. But when you testified under oath last time, you
6 said that none of it was true, right?

7 A Yes.

8 Q So then the statement you made under oath last time that
9 you lied about everything, now you're saying that statement
10 wasn't really all true either, right?

11 A Yes.

12 Q So then you made a false statement last time you were in
13 here under oath, right?

14 A No.

15 Q No. Well, you just agreed with me, sir, that today you're
16 saying some of what you said on that first meeting was true,
17 right?

18 A The only thing they asked me about Dana Bostic, did I work
19 for him, and I told him yes.

20 Q No, no, that's not what I asked you.

21 So you're saying that some of what you told them
22 during that first meeting was true today under oath, right?

23 A Yes.

24 Q And when you testified in this court last time under oath,
25 you said that everything that you told them that day was a

Davis - cross

1 lie, right?

2 A Yes.

3 Q Okay. So then that first statement, according to you
4 today when you're under oath, that first statement you made
5 under oath last time that you lied about everything, now
6 you're saying, well, that wasn't true, I didn't lie about
7 everything, right?

8 A Yes.

9 Q Okay. But it's certainly true that you said you lied
10 about guns and you lied about drugs; you agree with that,
11 right?

12 A Yes.

13 Q You lied to U.S. attorneys, right?

14 A Yes.

15 Q You lied to federal agents on December 22nd, right?

16 A Yes.

17 Q You lied and told them one lie after another after another
18 that day, right?

19 A Yes.

20 Q Okay. And the fact is, if you're going to be honest now,
21 you have to admit you can't even remember the number of lies
22 you told them that day, can you?

23 A No.

24 Q It was more than you could count, right?

25 A Yes.

Davis - cross

1 Q Okay. And when you went in there, you didn't hesitate to
2 lie, did you?

3 A No.

4 Q When confronted by them telling you you have to tell us
5 the truth about what happened at various parts of this case,
6 you had no problem lying on that day, did you?

7 A No.

8 Q Now, on December 22nd, during that first meeting you had
9 with them, you never mentioned anything about Dana Bostic
10 telling you there was a green light to shoot anybody after
11 Curtis Ellis' murder, did you?

12 A No.

13 Q You didn't mention anything on that date, December 22nd,
14 about Dana Bostic saying, everybody get a gun, the day after
15 Curtis Ellis was murdered? You didn't say anything about that
16 either, did you?

17 A No.

18 Q You didn't mention anything on December 22nd about him
19 telling you to go South on some occasion and help his cousin
20 Short by shooting some guy, did you?

21 A No.

22 Q You never mentioned him standing on some sort of porch and
23 telling you he was getting a call about where the Takers were
24 so you could go with some people to try to shoot him; you
25 didn't mention that, did you?

Davis - cross

1 A No.

2 Q Okay. And you never mentioned him telling you to shoot up
3 some porch either, did you?

4 A No.

5 Q Okay. But as you were saying a minute ago when we were
6 talking about Dana Bostic, even on December 22nd, you
7 certainly did say incriminating things about him, right?

8 A Yes.

9 Q You said he ran the drug spot, right?

10 A Yes.

11 Q You said he went to the table and mixed the heroin, right?

12 A Yes.

13 Q Okay. You said you heard he was responsible for hitting
14 your cousin with a bat at some point, right?

15 A Yes.

16 Q Okay. So you were saying incriminating things about him
17 that day, right?

18 A Yes.

19 Q You weren't trying to protect him that day, were you?

20 A No.

21 Q No. The person you were trying to protect by lying that
22 day, it was really you, right?

23 A Yes.

24 Q Okay. And all of those things I just mentioned, the thing
25 about your cousin getting hit with a bat, and the thing about

Davis - cross

1 him running the spot, all those things are things you said on
2 December 22nd, right?

3 A Yes.

4 Q So all those things are things that you said on a day when
5 the last time you were in court you swore under oath
6 everything you said was a lie, right?

7 A Yes.

8 Q Okay. On that day, December 22nd, you never mentioned
9 anything about Dana Bostic ever telling you to go and shoot at
10 anybody ever, did you?

11 A No.

12 Q And on that day, you never mentioned that he ever had a
13 personal conversation with you about any shooting at all,
14 right?

15 A No.

16 Q And you certainly never mentioned that you had to have his
17 permission, as you say now, to anytime you wanted to shoot
18 somebody, right?

19 A No.

20 Q Okay. But today, today you're saying he was personally
21 talking to you all the time about doing shootings, right?

22 A Yes.

23 Q And that was him actually talking to you and telling you,
24 Capone, go and take some people and do this shooting, that's
25 what you're talking about, right?

Davis - cross

1 A Yes.

2 Q Direct statements from him to you, right?

3 A Yes.

4 Q So you must have been pretty close to him, right?

5 A Yes.

6 Q You would say you were close to him?

7 A Yes.

8 Q Okay. Well, you know that Dana Bostic's phone was
9 wiretapped for months, right?

10 A No.

11 Q You're not familiar that the phone was tapped?

12 A When I was out?

13 Q Huh?

14 A When I was out?

15 Q You're not familiar when the phone was tapped, is that
16 right?

17 A No.

18 Q You don't know, okay.

19 When you met with the agents on December 22nd, you
20 said that you were --

21 Wait a minute. Let me go back for a minute. I'm
22 sorry.

23 So you said that you and Dana Bostic were pretty
24 close, right?

25 A Yes.

Davis - cross

1 Q And he talked to you directly about what was going on,
2 right?

3 A Yes.

4 Q Okay. But you testified earlier this morning, and
5 Ms. Church asked you about how you knew that he was
6 controlling the drug spot, right?

7 A Yes.

8 Q And what you said this morning was that, well, you knew
9 because you were around the neighborhood, right?

10 A Yes.

11 Q You knew because you heard what was going on in the
12 neighborhood and you were there, right?

13 A Yes.

14 Q You didn't say, Mr. Bostic told me about it, did you?

15 A No.

16 Q No. You didn't say, I was close with him and I knew what
17 he was doing, did you?

18 A No.

19 Q When asked that question more than one time, the only
20 answer you could give this morning was that, well, I heard it
21 around the neighborhood, right?

22 A Yes.

23 Q But now that we get to the afternoon, you're saying that
24 you were close to him, right?

25 A Yes, I was much younger, too, when I first started

Davis - cross

1 hustling for him.

2 Q I couldn't understand. What was that?

3 A I was younger, too, when I first started hustling for him,
4 when I first started selling drugs for him.

5 Q I understand. I understand. I'm not -- that's not the
6 question I was asking.

7 You're saying now you were close to him, right?

8 A As I got older, I got closer to him.

9 Q You're saying that you were closer to him as you got
10 older; that's what you're saying now, right?

11 A Yes.

12 Q Okay. But this morning when you were asked how you knew
13 how the drug operation worked, you said you heard in the
14 neighborhood, right?

15 A Yes.

16 Q You never said that he talked to you about any of this
17 this morning, did you?

18 A No.

19 Q Now, you agreed with me already that you lied repeatedly,
20 more times than you can count, to the agents and the U.S.
21 attorneys on December 22nd about things that you did, right?

22 A Yes.

23 Q Yes. And so then you didn't -- you said you didn't have
24 any problem lying to them to try to protect yourself, right?

25 A Yes.

Davis - cross

1 Q Was that yes?

2 A Yes.

3 Q Okay. So you didn't have any problem lying to them to
4 protect yourself. You certainly could have told them that,
5 well, Dana Bostic ordered this green light on everybody, but I
6 didn't do it. You could have said that, right?

7 A Yes, I could have, but at the time I had no proffer from
8 the state or the Feds that I won't get charged with the
9 murders.

10 Q I didn't ask you that question although I'm interested in
11 your answer.

12 The question I'm asking you is: You didn't tell
13 them, oh, he said this statement about there's a green light
14 on everybody? You didn't tell them that?

15 A I didn't talk about no murders.

16 Q Right.

17 A 'Cuz when they asked me --

18 Q Certainly you could have told them, yes, he said there was
19 a green light on everybody but I didn't do that. You could
20 have told them that, right?

21 A Yes, I could have.

22 Q You didn't have any problem lying to them about other
23 things to protect yourself, right?

24 A No.

25 Q But you didn't mention that to them at all that day, did

Davis - cross

1 you?

2 A I knew not to say nothing. They had no agreement that
3 would cover me from not getting charged with it.

4 Q So wait a minute. So then the reason that you didn't tell
5 them, the reason that you lied to them more times than you can
6 count is because you weren't sure that they wouldn't charge
7 you with anything, is that what you're saying?

8 A I knew somehow I get charged with it.

9 Q You said what?

10 A I didn't have no type of immunity or nothing that would
11 cover me from not getting charged with murder.

12 Q Okay. So you wanted to avoid murder charges for you,
13 right?

14 A Yes.

15 Q And in order to avoid murder charges for you, you were
16 willing to lie and lie and lie again, right?

17 A No.

18 Q You said you lied to them repeatedly, right?

19 A When they asked me about shootings and murders, I didn't
20 tell them nothing. That's when they ended the interview.

21 Q Wait, now. You have to remember what you said before,
22 sir. You just said to me under oath today that you lied to
23 them more times than you can count on December 22nd, right?

24 A Yes.

25 Q Okay. And then you said the reason that you were doing

Davis - cross

1 that was because you didn't want to get charged with murders,
2 right?

3 A Yes.

4 Q So avoiding --

5 And the reason you didn't want to get charged with
6 the murders was because you didn't want to get that terrible
7 murder sentence, right?

8 A Right.

9 Q That can be a sentence of up to life in prison, right?

10 A Yes.

11 Q And you wanted to avoid that, right?

12 A Yes.

13 Q And to avoid that, you were willing to lie to them more
14 times than you can count then, right?

15 A Yes.

16 Q And it's certainly true, Mr. Davis, that your desire to
17 avoid such a high penalty like life in prison, the desire to
18 avoid that, you still have that desire today, right?

19 A Yes.

20 Q You still want to avoid that at all costs, right?

21 A Yes.

22 Q And you know that in this case, the recommended sentence
23 for you could be between 30 years and life in prison, right?

24 A Yes.

25 Q Okay. And so knowing that the recommended sentence can be

Davis - cross

1 from 30 years to life, you don't want to get the 30 years or
2 the life, do you?

3 A No.

4 Q And so you want to do what you need to do, whatever that
5 is, to try to prevent that from happening, right?

6 A Yes.

7 Q And the last time on December 22nd, when you were trying
8 to prevent yourself from getting a big sentence like life or
9 murder, you lied more times than you can count, right?

10 A Yes.

11 Q Okay. And what you are doing here, as you testified
12 today, is trying to make sure you don't get a higher sentence
13 now, right?

14 A Yes.

15 Q Yes. Now, you met with them in December and then you
16 actually met with the agents again to pursue cooperation at
17 the beginning of August, around August the 8th, right?

18 A Yes.

19 Q Okay. Now, this was before you started telling them the
20 truth, as you call it, right?

21 A Before.

22 Q You testified earlier, you agreed with me, that prior to
23 August 25th, what you were telling them was lies, right?

24 A Yes.

25 Q Okay. And you met with them on August 8th, right, at the

Davis - cross

1 beginning of August, right?

2 A I can't remember.

3 Q You can't remember, okay.

4 A I met with them.

5 Q If I were to show you the report that was prepared
6 regarding your meeting with them, do you think that could
7 refresh your memory about the date?

8 A Yes.

9 MR. BRINDLEY: May I approach the witness, your
10 Honor?

11 MS. CHURCH: I object. This is not the witness'
12 statement. It's not the report.

13 MR. BRINDLEY: It's refreshing.

14 THE COURT: The objection is overruled. Go ahead.

15 MR. BRINDLEY: Did you say I could approach, Judge?

16 THE COURT: Yes.

17 BY MR. BRINDLEY:

18 Q Mr. Davis, I'm going to show you what is marked as Defense
19 Exhibit Davis D, and if you can just take a look at the top of
20 this report and read that to yourself, and then look up at me
21 after you do.

22 (Brief interruption.)

23 BY MR. BRINDLEY:

24 Q Does that refresh your memory about the date when you met
25 with him in early August?

Davis - cross

1 A Yes.

2 Q It was around August 8, wasn't it?

3 A Yes.

4 THE COURT: This is 2011?

5 MR. BRINDLEY: Yes, your Honor, I'm sorry. August
6 8th, 2011.

7 BY MR. BRINDLEY:

8 Q Is that correct, Mr. Davis?

9 A Yes.

10 Q And when you met with him on August 8th, that was a second
11 meeting that happened before August 25th, right?

12 A Yes.

13 Q Okay. And on August 8th of that second meeting, you spoke
14 to them about -- specifically about a couple of killings that
15 you didn't have anything to do with, right?

16 A Yes.

17 Q Okay. But even when you were doing that on August 8th,
18 you never mentioned that Mr. Bostic said there was a green
19 light to shoot anybody the day after Curtis Ellis died, did
20 you?

21 A No.

22 Q Again, you never mentioned that he said everyone get a gun
23 the day after Curtis Ellis died, did you?

24 A No.

25 Q Again, you never mentioned anything about him telling you

Davis - cross

1 to go South to help his cousin Short with a shooting that day,
2 did you?

3 A No.

4 Q And, again, you never mentioned him standing on a porch
5 and telling you that he was getting information about where
6 the Takers were and that he wanted you to go shoot them; you
7 didn't tell them about that that day, did you?

8 A No.

9 Q And you didn't tell them anything about him asking you to
10 shoot up a porch that day, did you?

11 A No.

12 Q And you never mentioned him directing you to do any
13 shooting at all, did you?

14 A No.

15 Q You never mentioned that you ever had a personal
16 conversation with Dana Bostic about any shooting that ever
17 occurred?

18 A No.

19 Q Did you?

20 And this was a meeting, again, where you were in the
21 process of trying to cooperate with the government, right?

22 A Yes.

23 Q And you would agree with me that, again, on August 8th,
24 the second meeting when it came down to it again, you decided
25 to lie, right?

Davis - cross

1 A No.

2 Q No? Well, okay.

3 But you said earlier, you agreed earlier with me,
4 that everything you said prior to August 25th was a lie,
5 right?

6 A Yes.

7 Q Okay. And you agreed with Mr. Bischoff when he was here
8 questioning you last time that everything you said to them
9 before -- them being the agents and the U.S. attorneys --
10 before August 25th was a lie, right?

11 A Yes.

12 Q Okay. And August 8th comes before August 25th, right?

13 A Yes.

14 Q So if everything you said before the 25th was a lie, what
15 you said on August 8th was a lie; isn't that what your
16 testimony means?

17 A Yes.

18 Q Okay.

19 A August 8th wasn't a lie.

20 Q So now you're saying August 8th wasn't a lie, right?

21 A No, it wasn't.

22 Q What?

23 A No, it wasn't.

24 Q Okay. So when you said previously under oath that
25 everything you said before August 25th was a lie, that

Davis - cross

1 statement was a lie, right?

2 A No. I just didn't remember the date that I went in on.

3 On August 8th date, I didn't remember that date.

4 Q You didn't remember the date.

5 You didn't remember that you had visited with U.S.

6 attorneys two, three times total?

7 A Yes, but I don't remember the dates.

8 Q Okay. But you specifically said everything you said

9 before August 25th was a lie under oath, right?

10 A Yes.

11 Q And now you're saying that's not right, that some of the

12 stuff you said on August 8 was true, right?

13 A Everything I said on August 8 was true.

14 Q Everything you said August 8 was true?

15 A Yes.

16 Q Okay. So on August 8, that's when you started telling the

17 whole truth, right?

18 A I guess it is.

19 Q Okay, great. Then on August 8th when you started telling

20 the whole truth, that day when you were a truth teller, you

21 didn't say anything about Dana Bostic giving this green light

22 on anybody, did you?

23 A My lawyer didn't tell me to say nothing about that.

24 There's certain stuff my lawyer told me to speak on.

25 Q I'm sorry. What?

Davis - cross

1 A My lawyer only told me to speak on what murders that I
2 knew about that I didn't have nothing to do with, and that's
3 what I spoke on.

4 Q Okay. But you would agree with me that at the beginning
5 of these proffer sessions, they tell you, you have to tell us
6 the whole truth about what you know, right?

7 A Yes.

8 Q They don't tell you, you can tell us about the stuff that
9 doesn't incriminate you but leave out everything else; they
10 don't say that, do they?

11 A No.

12 Q They direct them to tell you the whole truth about
13 everything you know, right?

14 A Yes.

15 Q So on August 8th you didn't do that, right?

16 A No.

17 Q You said on August 8th, you said, well, I suppose that was
18 the day I started telling the truth.

19 Well, if that's the day you started telling the
20 truth, then on the day you started telling the truth, you
21 didn't say anything about this man ever once talking to you
22 about doing any shooting at all, did you?

23 A My lawyer didn't tell me to speak on that.

24 Q Your lawyer is not testifying here today, sir; you are;
25 and I'm asking you.

Davis - cross

1 The question is --

2 A I'm telling you I was listening to what my lawyer was
3 saying.

4 Q I need you to answer the questions, only the questions
5 that I ask, and I'm not asking you that.

6 Listen to my question. On the day when you say you
7 were telling the truth for the first time, after having lied
8 more times than you can count, on that day, you never once
9 said that he ever told you, he being Dana Bostic ever told
10 you, anything about any shooting, didn't mention it, did you?

11 A No.

12 Q Okay. And you keep bringing your lawyer up.

13 You brought him up and so I'm going to ask you a
14 couple of questions. You said that at the beginning of the
15 meeting, the government told you that you need to tell them
16 everything and be wholly truthful about everything you know,
17 right?

18 A Yes.

19 Q And so you're saying that your lawyer told you not to
20 follow that directive?

21 A That wasn't an agreement at that meeting.

22 Q What?

23 A That wasn't the agreement at that meeting at that time.

24 Q I'm not understanding you because you told me that at the
25 beginning of the meeting, the U.S. attorneys told you you had

Davis - cross

1 to be honest and tell them the truth about everything you
2 knew, right?

3 A Yes.

4 Q But then you're saying your lawyer told you, don't tell
5 them about everything you know, right?

6 A Right.

7 Q Okay. So he specifically told you not to follow the
8 instructions they give you; that's what you're telling the
9 Court?

10 A No. That's not what I'm saying.

11 Q No?

12 THE COURT: Okay.

13 MR. BRINDLEY: I get it, Judge.

14 THE COURT: There is no jury in the box.

15 MR. BRINDLEY: I understand.

16 THE COURT: I got it about 10 minutes ago, maybe 20.

17 MR. BRINDLEY: I'm sorry, Judge. I will move on. I
18 understand.

19 BY MR. BRINDLEY:

20 Q We can agree based on what you have already said about
21 December, when you met with him the first time in December
22 of 2010, that when you promised to tell the truth, you don't
23 always do it, right?

24 A No, I don't.

25 Q Okay. So promising to tell the truth, that doesn't mean

Davis - cross

1 the truth is what we're going to get from you, right, not
2 every time?

3 A You're getting the truth.

4 Q But when you promised to tell the truth in December, they
5 didn't get the truth, did they?

6 A No, they didn't get the truth then.

7 Q No, and you promised to tell them the truth, right?

8 A Yes.

9 Q Just like you promised to tell the truth today, right?

10 A Yes.

11 Q The fact is you don't even feel bad about lying, do you?

12 A No.

13 Q When you're lying to try to protect yourself, it doesn't
14 bother you, does it?

15 A No.

16 Q You would agree with me that your life has been built on
17 shooting people, doing drugs and lying to authorities; that's
18 something you would agree with, right?

19 A Yes.

20 Q All right. And you would agree that lying comes naturally
21 to you, I think, right?

22 A Yes.

23 Q Okay. And you said earlier that if you lied, then you
24 don't get the deal, right?

25 A Yes.

Davis - cross

1 Q If you lie during your cooperation, right?

2 A Yes.

3 Q But you don't really think that's true, do you?

4 A Yes.

5 Q Well, you said that in December when you met with him, you
6 were trying to start your cooperation, right?

7 A I'm really trying to see what they had on me.

8 Q Well, earlier you said you were trying to start your
9 cooperation, right?

10 A Yes.

11 Q Okay, and you certainly lied to them then, right?

12 A Yes, and I told them I lied.

13 Q And you still got your plea agreement, right?

14 A No, I didn't get the plea agreement then.

15 Q You signed it, didn't you?

16 THE COURT: He said he didn't get it then.

17 MR. BRINDLEY: I'm sorry. I didn't understand.

18 BY MR. BRINDLEY:

19 Q You signed it after that. After you had lied to them
20 repeatedly, you were able to sign the plea agreement with the
21 government agreeing that you should get between 15 and
22 20 years, right?

23 A That was after the other proffer.

24 Q That was after you had lied to them repeatedly, right?

25 A Yes.

Davis - cross

1 Q Okay. Now, I think you would agree that the reason you
2 started telling the truth, or the reason you say you started
3 telling the truth, I guess I should say, is because reality
4 set in; does that sound right?

5 A Yes.

6 Q The reality that set in was that you realized the
7 government knew about the shooting of D-Low, right?

8 A Yes.

9 Q You had some involvement, right?

10 A Yes.

11 Q And you believed that they had you caught on that, right?

12 A Yes.

13 Q Okay. And you didn't want to get blamed for being
14 responsible for shooting D-Low, right?

15 A No.

16 Q No.

17 And you said earlier when you made the decision to
18 start telling the truth, you said that you had to find
19 yourself a way to get out of this, or something like that,
20 right?

21 A Yes.

22 Q And the way that you did that was you told them that Dana
23 Bostic gave the green light direction, right?

24 A Yes.

25 Q And you told them that Dana Bostic was the one that you

Davis - cross

1 had to get permission from to do the shootings, right?

2 A Yes.

3 Q And you told them about these other shootings that you
4 mentioned earlier today, right?

5 A Yes.

6 Q That he was involved, right?

7 A Yes.

8 Q Right.

9 That's what you did to try to get yourself out of
10 this; that's what you said, right?

11 A Yes.

12 Q Okay. And by doing that, according to your plea
13 agreement, you can get between 15 and 20 years, right?

14 A Yes.

15 Q A lot better than 30 years or life, isn't it?

16 A Yes.

17 Q A lot better than the life sentence you would get if you
18 got prosecuted for the murders, right?

19 A Yes.

20 Q Now, you said you didn't want the government to think you
21 were responsible, the one responsible for making the D-Low
22 shooting happen. But you would agree with me that there was
23 good reason for the government to think that it might have
24 been you who made it happen on your own, right?

25 A Yes.

Davis - cross

1 Q Yes, because you shot people before, didn't you?

2 A Yes.

3 Q Shot somebody named Cord, right?

4 A Yes.

5 Q Shot somebody -- you shot a second person on a different
6 occasion, right?

7 A Yes.

8 Q Intended to kill both of them, right?

9 A Yes.

10 Q Been involved in four or five other shootings, right?

11 A Yes.

12 Q At least, right?

13 A Yes.

14 Q Yes. And you didn't feel bad about any of them, did you?

15 A No.

16 Q Trying to kill somebody with a gun doesn't bother you,
17 does it?

18 A No.

19 Q So if trying to kill somebody with a gun doesn't bother
20 you, then simply lying about somebody, that doesn't bother you
21 very much either, does it?

22 A No.

23 Q And so when you were worried that they might think you
24 were the one responsible for this on your own, that's when you
25 started telling them Dana Bostic said this thing about the

Davis - cross

1 green light, right?

2 A No. I just told them what was said.

3 Q You told them what was said after you were worried they
4 thought you did it on your own, right?

5 A They knew I didn't do it on my own. It was on camera.

6 Q Okay. You told them that he's the one that made the
7 statement about this green light after -- what you said before
8 was you were worried they were going to think you were the one
9 responsible for making it happen, right?

10 A What did you say?

11 Q You told them that he made this statement about there
12 being this green light. When you did that, that was after you
13 said you became worried that they were going to think you were
14 the person responsible for making the shooting happen, right?

15 A No.

16 Q You didn't say that?

17 A I was not worried that I was going to be responsible. I
18 just told them what happened.

19 Q You didn't just testify to that a minute ago?

20 A That I was worried?

21 Q I'm going to move on to the next question, Mr. Davis.

22 When this meeting -- when you said it was the day
23 after Curtis Ellis died and you said that Mr. Bostic said
24 there's a green light and everybody get a gun, right?

25 A That was the same day.

Davis - cross

1 Q The same day that he died or the next day?

2 A Same day.

3 Q Same day.

4 And it was -- this happened, this meeting happened,
5 at 4019 Van Buren?

6 A Yes.

7 Q And you said everyone associated with you was there to
8 hear it, right?

9 A Yes.

10 Q Aaron Bagley was there, right?

11 A Yes.

12 Q You remember that specifically, he was there to hear it,
13 right?

14 A Yes.

15 Q Okay. Before you realized that they knew you were
16 involved in D-Low's shooting, you never once mentioned Mr.
17 Bostic telling you to shoot anybody at all, did you?

18 A Excuse me?

19 Q Before you realized they knew about the D-Low thing and
20 you being involved, you never once told them anything about
21 Mr. Bostic being involved in any shooting, did you?

22 A No.

23 Q It's fair to say what you did was you lied about
24 everything until you believed they had you caught on D-Low,
25 right?

Davis - cross

1 A No.

2 Q No?

3 A Can I say something?

4 Q No. You can answer the question.

5 It's fair to say --

6 You said no.

7 You thought they had you caught on D-Low, right?

8 A Yes.

9 Q And that's when you started to talk about Mr. Bostic.
10 That's the right progression of events, isn't it?

11 A No.

12 Q Okay. Now, today, as opposed to what you said earlier
13 when you started talking, today you said that Mr. Bostic was
14 repeatedly telling you to participate in shootings, right?

15 A Yes.

16 Q You said that it was Mr. Bostic who told Richards, Brandon
17 Richards, you and Antoine were to go out and shoot somebody
18 named Gio in early 2009; you told the government that, right?

19 A Yes.

20 Q You told them Mr. Richards shot two innocent people on
21 some porch, right?

22 A Yes.

23 Q You said it was Mr. Richards that did that because Mr.
24 Bostic told him to, right?

25 A Yes.

Davis - cross

1 Q And you told them that all you did was drive, right?

2 A Yes.

3 Q Just like you say all you did was drive when D-Low got
4 shot?

5 A Yes.

6 Q Just like you say all you did was drive when C-Note got
7 shot, right?

8 A Yes.

9 Q Just like you say all you did was drive when Monk got
10 shot, right?

11 A No, I didn't drive when Monk got shot.

12 Q You didn't drive on that one?

13 A No.

14 Q Okay. All you did was drive when Antoine Ward shot
15 somebody on the South Side who had a problem with some guy
16 named Short?

17 A Right.

18 Q That was you driving again?

19 A Yes.

20 Q And all you did was drive, according to you, when Tommy
21 Moore shot at some guys in front of a store, is that right?

22 A I didn't drive them then. I was parked down from where
23 the guys was then. I didn't make it to my car.

24 Q Okay. But you were in the area just driving; you didn't
25 participate. That's what you were saying, right?

Davis - cross

1 A Yes, I was there.

2 Q And you drove Curtis Ellis to try to shoot Little Larry,
3 is that true?

4 A No.

5 Q You drove Curtis Ellis to shoot C-Note, or Casino, is that
6 true?

7 A Yes.

8 Q You were just the driver, right?

9 A Yes.

10 Q So you have to agree with me that there were a whole lot
11 of shootings where you were there, but you say, I was just the
12 driver, right?

13 A Yes.

14 Q And each time that happened, you say ultimately it was Mr.
15 Bostic who was responsible for me being there because he told
16 us to do it, right?

17 A Yes.

18 Q If you didn't have him to blame each one of these times,
19 you would have to worry that the government might think you
20 did these shootings on your own direction, right?

21 A Yes.

22 Q And you don't want that, do you?

23 A No.

24 Q You talked about some of these shootings being in
25 retaliation for the murder of Curtis Ellis, correct?

Davis - cross

1 A Yes.

2 Q Curtis Ellis was your friend, wasn't he?

3 A Yes.

4 Q You grew up with him, didn't you?

5 A Yes.

6 Q You went out shooting people with Curtis Ellis, right?

7 A Yes.

8 Q It was Curtis Ellis who got you into selling heroin on
9 Gladys, right?

10 A Yes.

11 Q You used to hang out at Curtis Ellis' house, right?

12 A No.

13 Q You didn't hang out at Curtis Ellis' place?

14 A No.

15 Q You spoke to the agents on the 2nd of November, 2010,
16 right?

17 A Yes.

18 Q When you spoke to them on the 2nd of November, 2010, did
19 you tell them that he used to hang out at Curtis Ellis' place?

20 A No.

21 Q You didn't say that, okay.

22 When you found out Curtis Ellis was killed, you
23 immediately started crying, didn't you?

24 A Yes.

25 Q You were upset because your friend had been killed, right?

Davis - cross

1 A Yes.

2 Q You went to the hospital, right?

3 A Yes.

4 Q And you were angry with whoever did it, right?

5 A Yes.

6 Q And you wanted to get revenge, right?

7 A Yes.

8 Q But now that you got caught, you don't want to take
9 responsibility for that revenge, do you?

10 A I took responsibility.

11 Q What you do when you get in trouble, generally speaking,
12 is you lie until you can't get out of it and then you blame
13 somebody else; isn't that what you do?

14 A No.

15 Q No. Well, you previously carried on a sexual relationship
16 with an underage 16-year-old girl, didn't you?

17 A Yes.

18 Q When you were 24 years old?

19 A It's possible.

20 Q Possibly, something in that area, right?

21 A Yes.

22 Q You knew it was wrong?

23 A Yes.

24 Q Right?

25 And when you were first confronted by other women you

Davis - cross

1 were sleeping with, you denied ever having anything to do with
2 a 16-year-old, right?

3 A Yes.

4 Q You lied about it, right?

5 A Yes.

6 Q But then she told too many people what you were doing,
7 right?

8 A Yes.

9 Q And you knew you were going to get caught by these other
10 women for having sex with a little girl, right?

11 A Yes.

12 Q And so then you blamed her for the end of the
13 relationship. It was because she was interfering with your
14 other relationships, right?

15 A Yes.

16 Q You said it was her fault, right?

17 A Yes.

18 Q After you lied about it first, right?

19 A Yes.

20 Q Okay. You were accused of molesting two foster girls,
21 right?

22 A Yes.

23 Q One of them was 6 years old, right?

24 A I don't remember how old they was.

25 Q 6 years old sounds about the right age that you know them

Davis - cross

1 to be, right, in that area?

2 A I guess so.

3 Q And you were accused of sodomizing that little girl,
4 raping her?

5 A Yes.

6 Q You denied it at first, right?

7 A Yes.

8 Q You said she was lying, right?

9 A Yeah.

10 Q You were accused of raping her sister?

11 A Yes.

12 Q Denied that, too, right?

13 A Yes.

14 Q And you kept denying it, and then the DCFS investigators
15 came to your grandmother's house where you stayed, right?

16 A I wasn't staying there.

17 Q Well, when the DCFS investigators came to the house to
18 look into these rapes that you say you didn't do, your
19 reaction is to run away, wasn't it?

20 A Yes.

21 Q You claimed you were innocent as long as you could, and
22 when trouble got too close, you ran, right?

23 A Yes, but I didn't run that time. I was still in the
24 neighborhood.

25 Q You ran away from the house when they came, right?

Davis - cross

1 A I wasn't never there when they came.

2 Q You just said you ran away when the investigators came,
3 didn't you?

4 A I wasn't there. I haven't lived there since 2002.

5 Q When I asked you the question a minute ago, didn't you
6 just say you ran away when the investigators came?

7 A You asked me, do I run away from trouble. Yes, I do.

8 Q Okay. You dated a girl named Regina Brady, didn't you?

9 A Yes.

10 Q And ultimately that relationship ended because of some
11 problems that she had, right?

12 A Yes.

13 Q Okay. So it was her fault the relationship ended, right?

14 A Not really. It was both our part.

15 Q You beat her, didn't you?

16 A Yes.

17 Q You punched her, kicked her, right?

18 A Yes.

19 Q When she tried to leave you, you threatened to harm her,
20 didn't you?

21 A No.

22 Q No?

23 You beat her for going to McDonald's without her
24 getting your permission; did you do that?

25 A I don't remember that one.

Davis - cross

1 Q You don't remember?

2 A No.

3 Q But it's a possibility, isn't it?

4 A I don't remember beating her for not going to McDonald's.

5 Q You like to be in control, right?

6 A No.

7 Q You like to -- you want to decide and control when you're
8 going to act with violence, right?

9 A Say what?

10 Q When you're going to act with violence, you want to be the
11 one that controls when you do that, right?

12 A Yes.

13 Q Okay. And in October of 2007 after you physically abused
14 Regina Brady, you took her to an abandoned building on
15 Congress Street, didn't you?

16 MS. CHURCH: Objection, relevance, your Honor.

17 MR. BRINDLEY: It goes to credibility, Judge. It's a
18 sentencing. I think it's --

19 THE COURT: Okay, let's get through it, though.

20 MR. BRINDLEY: Yes, I'm going to get through it,
21 Judge.

22 BY MR. BRINDLEY:

23 Q You took her to an abandoned building on Congress Street,
24 is that true?

25 A Yes.

Davis - cross

1 Q Tied her up?

2 A No, I didn't tie her up.

3 Q You left her there tied up with pit bulls for days so she
4 couldn't get out, is that true?

5 A No.

6 Q Then at the MCC, there was a defendant named David Murch.
7 You know who he is, right?

8 A Yes.

9 Q He claimed that you anally raped him, right?

10 A Yes.

11 Q You got questioned about it by the FBI, right?

12 A Right.

13 Q By officials at MCC, right?

14 A Right.

15 Q First, you claimed you never had sex with him, right?

16 A Right.

17 Q Claimed you never touched him, right?

18 A Right.

19 Q All of that was a lie, right?

20 A Right.

21 Q You lied to FBI agents, right?

22 A Yeah.

23 Q Lied, claiming you were innocent, right?

24 A Yes.

25 Q Lied to avoid trouble, right?

Davis - cross

1 A Yes.

2 Q Okay. But then you realized that this allegation of rape
3 could jeopardize your cooperation deal with the government,
4 didn't you?

5 A Yes.

6 Q Okay. And you were afraid you weren't going to be able to
7 get away with claiming you were innocent, right?

8 A Right.

9 Q So then you admitted you had sex with him even though you
10 lied before, right?

11 A Yes.

12 Q Then you said it was him that came on to you, right?

13 A Yes.

14 Q That he was responsible for what happened, right?

15 A Right.

16 Q Okay. So what happened is you lied until you thought you
17 were going to get caught, and then you said somebody else was
18 to blame, right?

19 A No. I just told him what happened.

20 Q Mr. Davis, you would certainly agree with me that you were
21 told many, many lies about this case in the past, right?

22 A Yes.

23 Q And speaking honestly, you can't give me any reason to
24 believe you now after all those lies, can you?

25 A I don't know. That's something you guys --

Davis - redirect

1 MR. BRINDLEY: Thank you, Mr. Davis. No further
2 questions.

3 THE COURT: Redirect.

4 REDIRECTION EXAMINATION

5 BY

6 BY MS. CHURCH:

7 Q Mr. Davis, when you first --

8 The second time you came in on August 8, 2011, for a
9 meeting with the government and agents, did you have a state
10 proffer letter?

11 A No.

12 Q What do you understand that the state proffer letter was
13 or is?

14 A That as long as I tell the truth, I will not be charged.

15 Q Charged by who?

16 A By the state.

17 Q With what?

18 A Murder, anything I told.

19 Q And during that meeting, did your lawyer ask the
20 government for a state proffer letter?

21 A Yes, he did.

22 Q And do you remember what he was told?

23 A That I was trying to contact somebody in the state but
24 couldn't reach him. So he told me, just tell about the things
25 that I know that I didn't play a part in, and when they get

Davis - redirect

1 the state proffer, we're going to come back in and talk about
2 the rest of the things.

3 Q Is that what happened?

4 A Yes.

5 Q And so the next time you came in was a couple weeks later?

6 A Yes.

7 Q Did you sign a state proffer letter at that meeting?

8 A Yes.

9 Q And during that meeting, what did you tell the government?

10 A Everything I did. Everything I did. Anything I had a
11 part I told.

12 Q So all the murders and shootings that you hadn't told us
13 before, correct?

14 A Yes.

15 Q When you started talking about the shootings, were you
16 shown police reports by the government?

17 A No.

18 Q Were you ever asked about specific shootings at first?

19 A Yes.

20 Q Which shootings were you asked about at first?

21 A D-Low.

22 Q What did you say in the first proffer?

23 THE COURT: Can we put dates on these?

24 MS. CHURCH: Yes.

25 THE COURT: This is the early August one?

Davis - redirect

1 MS. CHURCH: The first one in December.

2 THE COURT: December.

3 MS. CHURCH: 2010.

4 BY MS. CHURCH:

5 Q Now, the first meeting when you were lying to the
6 government, what did you say about the shooting?

7 A I don't know nothing about it.

8 Q What happened when you said that?

9 A They end the meeting.

10 Q So when was the next time you came back in?

11 A '08.

12 Q During that time, were you cooperating with the
13 government?

14 A Yes.

15 Q You were cooperating with the government before you came
16 back in?

17 A No.

18 Q And during that period when you weren't cooperating with
19 the government, is that when the other accusation from the MCC
20 came about?

21 A Yes.

22 Q When you came back in, did you tell the government about
23 that accusation?

24 A Yes, I was questioned for it.

25 Q And did you tell the government what happened?

Davis - redirect

1 A Yes.

2 Q By testifying here today, are you concerned for your own
3 safety?

4 A No.

5 Q Sir, Mr. Brindley asked you a number of questions about
6 why you were the driver so often in these shootings.

7 How did you learn to be a driver for these shootings?

8 A I was a driver when the first shooting occurred. And I
9 would speed off. He just told me drive normally, and I just
10 got driving, and lot of times a lot of people scared to pull
11 up on people.

12 Q Do you know why that is?

13 A They just scared to pull up on people, and I wasn't afraid
14 to pull up on them.

15 Q When Curt taught you how to drive, what did he tell you
16 about whether you should go fast or slow?

17 A He told me just drive normal.

18 Q Did he explain why?

19 A 'Cuz the police going to be looking for a car that's
20 speeding off.

21 Q And did you drive slowly?

22 A Yes.

23 Q A few minutes ago, you said that you wanted to say
24 something but Mr. Brindley said no.

25 What was it that you wanted to say?

Davis - recross

1 A I just wanted to tell him the reason I couldn't say
2 nothing about the murders at first was 'cuz I only had a
3 proffer from the government and I didn't have none from the
4 state. And I was taking my lawyer's advice not to say nothing
5 about the things I was involved with until we got that proffer
6 from the state.

7 MS. CHURCH: May I have a moment, your Honor?

8 THE COURT: Yes.

9 MS. CHURCH: I think that is all.

10 THE COURT: Mr. Brindley, is there anything else?

11 MR. BRINDLEY: Very briefly, your Honor.

12 RECCROSS EXAMINATION

13 BY MR. BRINDLEY:

14 Q Mr. Davis, you said that the reason you couldn't say
15 anything about the murders at first is because you didn't have
16 your proffer yet from the state, right?

17 A Right.

18 Q Didn't want to get charged with the murders, right?

19 A Yes.

20 Q So that's why you didn't say anything about them; is that
21 what you're saying, right?

22 A Yes.

23 Q But you have also told us that the first time you met with
24 the government, you lied about everything, right?

25 A Yes.

Davis - recross

1 Q Okay. Well, the fact that you didn't have a state
2 proffer, that didn't make you lie, did it?

3 A What you say?

4 Q The fact that you didn't have a state proffer, that didn't
5 compel you to lie, did it?

6 A No.

7 Q There's a difference between not telling them something
8 and just lying to them over and over, isn't there?

9 A Yes.

10 Q And you lied to them over and over, didn't you?

11 A Yes.

12 MR. BRINDLEY: No further questions, Judge.

13 THE COURT: Ms. Church, anything else?

14 MS. CHURCH: No, your Honor.

15 THE COURT: The witness is excused.

16 (Witness excused.)

17 THE COURT: Who is next?

18 MS. CHURCH: Aaron Bagley.

19 THE COURT: If you can have them bring Mr. Bagley
20 out.

21 (Brief interruption.)

22 THE COURT: Go ahead and have a seat.

23 (Witness sworn.)

24 THE COURT: All right, you can go ahead.

25 MS. BIESENTHAL: Thank you, Judge.

Bagley - direct

1 AARON BAGLEY, PLAINTIFF'S WITNESS, DULY SWORN

2 DIRECT EXAMINATION

3 BY MS. BIESENTHAL:

4 Q Please state your name and spell your last name for the
5 court reporter.

6 A Aaron Bagley, B-a-g-l-e-y.

7 Q How old are you, Mr. Bagley?

8 A 27.

9 Q Where did you grow up?

10 A West Side of Chicago.

11 Q Were you born and raised there?

12 A Yes, ma'am.

13 Q Do you go by any nicknames?

14 A Yes, ma'am.

15 Q What are your nicknames?

16 A Lil' One.

17 Q How far did you go in school?

18 A Graduated high school, couple years of college.

19 Q Where do you live right now?

20 A MCC Chicago.

21 Q And is that a prison?

22 A Yes, ma'am.

23 Q How long have you been incarcerated?

24 A Going on two years.

25 Q Have you been convicted of crimes in the past?

Bagley - direct

1 A Yes, ma'am.

2 Q How many times have you been convicted of crimes in the
3 past?

4 A Two.

5 Q What years were you convicted of those crimes?

6 A '05 and '07.

7 Q What was the 2005 conviction for?

8 A Possession of controlled substance.

9 Q What was the controlled substance that you were convicted
10 of possessing?

11 A Heroin.

12 Q What were you sentenced to?

13 A 24 months' probation.

14 Q And then in 2007, what was your conviction then?

15 A Possession of controlled substance.

16 Q Again, what controlled substance were you convicted of
17 possessing?

18 A Heroin.

19 Q And what sentence did you receive that time?

20 A 18 months' IDOC.

21 Q And have you been convicted in this case before Judge
22 Kennelly?

23 A No, ma'am.

24 Q Did you plead guilty to heroin conspiracy before Judge
25 Kennelly?

Bagley - direct

1 A Yes, ma'am.

2 Q That's why you have been incarcerated for the past two
3 years, is that right?

4 A Yes, ma'am.

5 Q Did you sell heroin at a spot located around Congress, Van
6 Buren and Pulaski?

7 A Yes, ma'am.

8 Q When did you first start selling heroin at that spot?

9 A 2001.

10 Q When did you stop selling heroin at that spot?

11 A 2010.

12 Q Did you plead guilty to selling heroin at that spot during
13 that time period?

14 A Yes, ma'am.

15 Q Specifically, did you plead guilty to heroin conspiracy?

16 A Yes, ma'am.

17 Q Did you plead guilty pursuant to a plea agreement?

18 A Yes, ma'am.

19 Q Was that a written plea agreement that you entered into
20 with the government?

21 A Yes, ma'am.

22 Q What were the terms of the written plea agreement that you
23 entered into with the government?

24 A I got -- I think it's 235, 235 months.

25 Q So your understanding of your sentence in the written plea

Bagley - direct

1 agreement would be 235 months?

2 A Yes, ma'am.

3 Q But then did you agree to cooperate with the government?

4 A Yes, ma'am.

5 Q In the written plea agreement, did the government agree to
6 do anything in return for your cooperation?

7 A Yes, ma'am.

8 Q What did they agree to do?

9 A Reduce my sentence.

10 Q To what?

11 A 141 months.

12 Q And what was your understanding as to what you had to do
13 in relation to your cooperation in order to receive that
14 recommendation from the government?

15 A Testify truthfully.

16 Q And who is it --

17 Have you been sentenced yet?

18 A No, ma'am.

19 Q Who is it ultimately that will determine your sentence?

20 A The judge.

21 Q Why did you decide to cooperate with the government?

22 A To help myself out.

23 Q What do you mean by help yourself out?

24 A Reduce my sentence.

25 Q When you entered into your written plea agreement, there

Bagley - direct

1 was what is called a factual basis in the plea agreement,
2 correct?

3 A Yes, ma'am.

4 Q And that recited facts of the circumstances of what you
5 had pled guilty to, the things you had done, correct?

6 A Yes, ma'am.

7 Q Did you come in and prepare for Dana Bostic's trial?

8 A Yes, ma'am.

9 Q During that time, did the government provide you with a
10 copy of the plea agreement, ask you to review it, and tell the
11 government whether you had any corrections to make to it?

12 A Yes, ma'am.

13 Q At that time did you tell the government that you did, in
14 fact, have a correction to make to the factual basis of your
15 written plea agreement?

16 A Yes, ma'am.

17 Q What was that correction?

18 A That as stated at first, that I seen him and several
19 others manufacturing and package heroin. I told you that I
20 did never say that.

21 Q And by him, who do you mean?

22 A Dana Bostic.

23 Q And so in the written plea agreement, it said that you had
24 actually seen Dana Bostic and others processing and packaging
25 heroin?

Bagley - direct

1 A Yes, ma'am.

2 Q Had you ever actually seen them processing and packaging
3 heroin?

4 A No, ma'am.

5 Q Did you know that Dana Bostic and the others had been
6 processing and packaging heroin?

7 A I didn't know, but I assumed, yes, ma'am.

8 Q And why did you make that assumption?

9 A Because they said they pulled a spot.

10 Q Who is they?

11 A It's common street knowledge.

12 Q Have you used drugs in the past?

13 A Yes, ma'am.

14 Q What kind of drugs?

15 A Marijuana.

16 Q When did you first start using marijuana?

17 A 2001.

18 Q Beginning in 2001 how often did you use marijuana?

19 A Practically every day.

20 Q Until when?

21 A 2010.

22 Q Were you a member of a street gang?

23 A Yes, ma'am.

24 Q What gang?

25 A New Breed.

Bagley - direct

1 Q When did you join the New Breed?

2 A 2001.

3 Q Did you have any particular role within the New Breeds?

4 A No, ma'am.

5 Q Now, you said that you first started selling drugs at the
6 area of Van Buren Congress and Pulaski in 2001, correct?

7 A Yes, ma'am.

8 Q What was your role at the spot at that time when you first
9 started selling in 2001?

10 A Security.

11 Q What do you mean by security?

12 A Watch out for the police.

13 Q Is that commonly referred to as a lookout?

14 A Yes, ma'am.

15 Q At some point did you start working in a different role?

16 A Yes, ma'am.

17 Q When?

18 A Like 2004.

19 Q In 2004 what did your role become?

20 A A pack worker.

21 Q What do you mean by a pack worker?

22 A Distribute loose heroin to customers.

23 Q Who did you receive the heroin from?

24 A Curtis Ellis and Charles Cowert.

25 Q How often were you out at the spot at that time working as

Bagley - direct

1 a pack worker?

2 A Every day.

3 Q At some point again, did your role change?

4 A Yes, ma'am.

5 Q When did it change again?

6 A In 2005.

7 Q In 2005 what did your role become?

8 A Pack runner.

9 Q What is the difference between a pack worker and a pack
10 runner?

11 A A pack runner distribute the packs to the pack runner for
12 individual sales.

13 Q And why is it that you got that additional responsibility
14 in 2005?

15 A Just got promoted.

16 Q Who were you getting the packs from at that point?

17 A Charles Cowert and Curtis Ellis.

18 Q Who were you then in turn giving those packs to?

19 A Pack workers.

20 Q Do you remember who your pack workers were?

21 A Not particularly.

22 Q Was it several different people?

23 A Yes, ma'am.

24 Q And for how long was it that you were working as a pack
25 runner?

Bagley - direct

1 A Until 2010.

2 Q And in 2010 did your responsibilities increase?

3 A My responsibilities increased in 2009.

4 Q In 2009?

5 A Yes, ma'am.

6 Q How did your responsibilities increase in 2009?

7 A After Lee Floyd got killed, I picked up an extra
8 responsibility of getting the packs and passed them out to me
9 and the rest of the pack runners.

10 Q Who did you get the packs from?

11 A Smooth.

12 Q And how often were you working at the spot at that time
13 when you took on that additional responsibility?

14 A Every day.

15 Q Once you took on that additional responsibility, were you
16 also ever responsible for collecting drug proceeds from the
17 other pack runners?

18 A Yes, ma'am, from time to time.

19 Q How often would you say were you responsible for
20 collecting the proceeds from the pack runners?

21 A Just about every day.

22 Q And who would tell you to collect the proceeds from the
23 pack runners?

24 A Smooth.

25 Q And who would give you the packs that you in turn gave to

Bagley - direct

1 the other pack runners?

2 A Smooth.

3 Q Now, during the entire time that you were working out at
4 the spot at Congress, Van Buren and Pulaski, did you have an
5 understanding as to who ran or controlled the spot?

6 A Yes. I was assuming that Dana Bostic ran it.

7 Q And why did you assume Dana Bostic ran it?

8 A That was the common street knowledge by me growing up in
9 the neighborhood.

10 Q Did you also ever see Dana Bostic around the spot?

11 A Yes, ma'am.

12 Q Did you know Dana Bostic?

13 A Yes, ma'am.

14 Q Are you familiar with what he looks like?

15 A Yes, ma'am.

16 Q Would you see him if he's in the courtroom today?

17 A Yes, ma'am.

18 Q Can you point to him, please, and describe something he is
19 wearing if he's here?

20 A Orange jumpsuit, to my left.

21 THE COURT: It's the defendant.

22 BY MS. BIESENTHAL:

23 Q How often did you see Dana Bostic around the spot?

24 A Just about every day.

25 Q What would you see him doing when you saw him out at the

Bagley - direct

1 spot?

2 A Just hanging out kicking with the fellows.

3 Q Was there a particular place where Dana Bostic and the
4 other fellows would hang out?

5 A Yes, at 4019 West Van Buren.

6 Q How close was that to the drug spot?

7 A Around the corner.

8 Q And who hung out there?

9 A Various people, different people.

10 Q Can you be specific?

11 A Me, Tommy Moore and some more people who they're not in
12 the conspiracy and got nothing to do with the case.

13 Q Was there anyone who actually lived at 4019 West Van
14 Buren?

15 A Yes, ma'am.

16 Q Who lived there?

17 A Tommy Moore.

18 Q Did you ever see any guns at 4019 West Van Buren?

19 A Yes, ma'am.

20 Q How often did you see guns at 4019 West Van Buren?

21 A Not too often, but every now and then.

22 Q Who specifically did you see with guns at 4019 West Van
23 Buren?

24 A I seen Gill. It was him, and I did hear about other
25 people having them but no one in particular.

Bagley - direct

1 Q So Gill and then other people that you heard of having
2 guns?

3 A Yes, ma'am.

4 Q Did you ever see Dana Bostic with a gun?

5 A No, ma'am.

6 Q Did you ever see other people with guns when they were
7 around Dana Bostic?

8 A Yes, ma'am.

9 Q How often did you see other people with guns when they
10 were around Dana Bostic?

11 A Not too often, but they was around.

12 Q Pardon me?

13 A I said not too often, but they was around.

14 Q And who was it who you would see carrying guns when they
15 were around Dana Bostic?

16 A Gill and various other people.

17 Q Do you know why they were carrying firearms when they were
18 around Dana Bostic?

19 A Because we was like into it around there, so they like
20 trying --

21 MR. BRINDLEY: Objection. Can we have foundation on
22 that?

23 THE COURT: Time frame is what you're talking about?

24 MR. BRINDLEY: And the basis for the knowledge.

25 THE COURT: Okay, do that.

Bagley - direct

1 BY MS. BIESENTHAL:

2 Q Do you know why people were carrying firearms around Dana
3 Bostic?

4 A Because we --

5 Q Just yes or no.

6 A Yes, ma'am.

7 Q Okay. Do you know around the time period it was that
8 people were carrying firearms around Dana Bostic?

9 A What you mean by time period?

10 Q When?

11 THE COURT: Around when? What was happening around
12 that time?

13 THE WITNESS: I don't understand the question.

14 BY MS. BIESENTHAL:

15 Q Was it a year before you were arrested, two years before
16 you were arrested?

17 A At various times.

18 Q At various times during the course of the years that you
19 were working out at the spot, you saw individuals carrying
20 firearms around Dana Bostic?

21 A Yes, ma'am.

22 Q At those times did you have an understanding as to why
23 those people were carrying guns around Dana Bostic?

24 A Yes, ma'am.

25 Q How did you know why these people were carrying guns

Bagley - direct

1 around Dana Bostic?

2 A We was into it, and they keep on to protect the spot and
3 just to protect us in general.

4 Q And how did you know that? How did you know that's why
5 they were carrying the guns?

6 A By common street knowledge.

7 Q People talking?

8 A Yes, ma'am.

9 Q When you say that you all were into it, what do you mean?

10 A I -- with different, with different people, different
11 gangs, neighborhoods.

12 Q Would you hear about it when your gang was into it with
13 another gang?

14 A Yes, ma'am.

15 Q What specifically would you hear when your gang was into
16 it with another gang?

17 A We just got into it with the people or the people just
18 came through there shooting.

19 Q Who would tell you these things about the different fights
20 that were going on between your gang and other gangs during
21 the course of the time that you were working out at the spot?

22 A Various people within the neighborhood or within our
23 organization.

24 Q Who within your organization would tell you those things?

25 A Like Capone, Gill, almost everybody.

Bagley - direct

1 Q By Capone, do you mean Maurice Davis?

2 A Yes, ma'am.

3 Q Did you learn at some point that Curt Ellis had been
4 killed?

5 A Yes, ma'am.

6 Q First of all, who is Curt Ellis?

7 A Dana Bostic brother.

8 Q How did you learn that Curt Ellis had been killed?

9 A I came out there in the morning and someone had told me.

10 Q Do you remember who?

11 A No, ma'am.

12 Q Do you know whether Dana Bostic was shot at the same time
13 that Curt Ellis was killed?

14 A Yes, ma'am.

15 Q How did you learn that?

16 A By the same person.

17 Q Did you go to the hospital to visit Dana Bostic after he
18 had been shot?

19 A No, ma'am.

20 Q Did you hear anything about a green light after you had
21 heard that Curt Ellis had been killed?

22 A Yes, ma'am.

23 Q When did you hear something about a green light?

24 A That same day.

25 Q Where were you when you heard something about a green

Bagley - direct

1 light?

2 A I think, if I'm not mistaken, I was in the car with
3 Capone.

4 Q Was anyone else in the car with you and Capone when you
5 heard something about a green light?

6 A No, ma'am.

7 Q What specifically did Capone tell you about the green
8 light?

9 A He say that we got -- that they got the green light, which
10 means, like he said, we got the green light. I just -- my
11 common street knowledge, I knew exactly what he was talking
12 about.

13 Q What did you understand him to be talking about?

14 A He had his hands up like he not stopping nobody from doing
15 whatever they wanted to do.

16 Q Who did you understand was not stopping anyone from doing
17 whatever they wanted to do?

18 A Mellow.

19 Q Who do you mean by Mellow?

20 A Dana Bostic.

21 Q Was Mellow a nickname that Dana Bostic went by?

22 A Yes, ma'am.

23 Q After hearing about the green light from Capone, did you
24 hear about any shootings taking place?

25 A Yes, ma'am.

Bagley - direct

1 Q What shootings did you hear about?

2 A One on Laramie and Chicago Avenue and one on Lake and
3 Cicero.

4 Q Did you hear anything specific about these shootings?

5 A Not specifically, no, ma'am.

6 Q What generally did you hear about the shootings?

7 A They just -- on my phone, tell me, like, keep your head
8 up, we just had action.

9 Q What did you understand --

10 First of all, who made those phone calls to you?

11 A Gill, Capone and various other people.

12 Q What did you understand when they said "keep your head
13 up"?

14 A Like be careful.

15 Q Did you hear from anyone why these shootings occurred?

16 A No. The rumor was because of retaliation for Curtis
17 Ellis.

18 Q During the course of the time that you worked for Dana
19 Bostic, did you hear about any other shootings or violence?

20 A No, ma'am.

21 Q Did you hear generally about shootings and violence that
22 occurred?

23 A Yes, ma'am.

24 Q Was there regularly talk about shootings and violence
25 among you and your other coconspirators?

Bagley - cross

1 A Yes, ma'am.

2 Q Were there certain people in your organization who were
3 known to be shooters for the group?

4 A Yes, ma'am.

5 Q Who were those people?

6 A Gill, Tommy Moore, Charles Cowert and various other
7 people.

8 MS. BIESENTHAL: Nothing further, Judge.

9 THE COURT: Mr. Brindley.

10 MR. BRINDLEY: Thank you, your Honor.

11 CROSS EXAMINATION

12 BY MR. BRINDLEY:

13 Q Mr. Richards -- I'm sorry. Mr. Bagley, I apologize.

14 You were arrested on August 11th, 2010, right?

15 A Yes, sir.

16 Q And you spoke to the police after you got arrested,
17 correct?

18 A Yes, sir.

19 Q You admitted you sold heroin right then, right?

20 A Yes, sir.

21 Q You told him how often you got it, right?

22 A Yes, sir.

23 Q You told them Brandon Richards called you to come get it,
24 right?

25 A Yes.

Bagley - cross

1 Q Okay. And you told them you got it from Ladonta Gill a
2 few times, right?

3 A Yes, sir.

4 Q And you signed a written statement that they wrote out for
5 you and said it was all true, right?

6 A Yes, sir.

7 Q Okay. Now, you weren't trying to hide the fact that you
8 were selling heroin then, were you?

9 A No, sir.

10 Q Okay. And when you admitted being involved in selling
11 heroin, you didn't mention anything about Dana Bostic or what
12 he did, right?

13 A Yes, sir.

14 Q You mentioned Richards, right?

15 A Yes, sir.

16 Q You mentioned Gill, right?

17 A Yes, sir.

18 Q Not Bostic, right?

19 A Right.

20 Q Now, eventually you realized, obviously, the charges
21 against you are extremely serious. That set in, right?

22 A Yes, sir.

23 Q Okay. And you were left to think about how serious the
24 penalty was going to be for a crime like this, right?

25 A Yes, sir.

Bagley - cross

1 Q And it was over a year, I think, when you actually spoke
2 to the government again, right?

3 A Yes, sir.

4 Q What happened was in September of 2011, you wrote the
5 prosecutors a letter, is that correct?

6 A Yes, sir.

7 Q And you said in your letter that you wanted to cooperate,
8 right?

9 A Yes, sir.

10 Q Because you didn't want to get as much prison time as the
11 charge carried and was going to be recommended for you, right?

12 A Yes, sir.

13 Q You wanted to find a way to get a lesser sentence or
14 reduced time, right?

15 A Yes, sir.

16 Q Now, at that point you knew that Dana Bostic was at the
17 top of this investigation, right?

18 A Yes, sir.

19 Q And in your letter to the government, you referred to the
20 case as Dana Bostic v. United States; does that sound right?

21 A Yes, sir.

22 Q And then you told the government you had information that
23 is of value to the government, right?

24 A Yes, sir.

25 Q And you had an idea in your head of what kind of

Bagley - cross

1 information you thought was valuable, right?

2 A Yes, sir.

3 Q You told them you decided it was in your best interest to
4 cooperate and give them that information, right?

5 A Yes, sir.

6 Q So you could try to get a lower sentence, right?

7 A Yes, sir.

8 Q Okay. And it was only after making that decision to
9 cooperate to try to get a lower sentence that you said
10 anything about Mr. Bostic, right?

11 A Yes, sir.

12 Q All right. Then you met with the agents on September 28th
13 of 2011, right?

14 A Yes, sir.

15 Q And you did this as a way to pursue the lesser sentence
16 we're talking about, right?

17 A Yes, sir.

18 Q All right. And you were trying to give them information,
19 the government information, you thought that they would find
20 valuable, right?

21 A Yes, sir.

22 Q And you made certain statements about Dana Bostic then,
23 right?

24 A Yes, sir.

25 Q Now, Mr. Bagley, the truth of the matter, and I don't

Bagley - cross

1 think you're hiding this at all, is the fact that you were
2 never that close to Dana Bostic personally, were you?

3 A No, sir.

4 Q You never hung out with him at 4019 Van Buren, did you?

5 A No, sir.

6 Q When you wanted to sell -- started selling heroin on
7 Gladys back in that area in 2005, it wasn't Mr. Bostic who you
8 went to about it at all, was it?

9 A No, sir.

10 Q It was Curtis Ellis, is that right?

11 A Yes, sir.

12 Q You wanted to move up near where -- Ellis talked to you,
13 right?

14 A Yes, sir.

15 Q You didn't talk to Mr. Bostic, did you?

16 A No.

17 Q You never really talked to him, did you?

18 A No, sir.

19 Q And after you stopped selling in 2005 and you wanted to
20 come back again in '07, you went to Ellis again, right?

21 A Right.

22 Q You didn't talk to Bostic, right?

23 A No, sir.

24 Q And really the only way you knew Mr. Bostic ran the drug
25 spot at all was by assumption and sort of word around the

Bagley - cross

1 street, right?

2 A Yes, sir.

3 Q That wasn't something you actually had personal knowledge
4 of because you weren't talking to him or seeing what he was
5 doing, right?

6 A Yes, sir.

7 Q And, obviously, you were a lot closer to Mr. Ellis than
8 Mr. Bostic, right?

9 A Yes, sir.

10 Q You knew a lot more about him, right?

11 A Yes, sir.

12 Q You also knew Ellis to be closer with Ladonta Gill and
13 Maurice Davis, right?

14 A Yes, sir.

15 Q None of you guys were that close to Mr. Bostic, were you?

16 A No, sir.

17 Q And when Mr. Ellis got killed, this guy that you were
18 close to, it's certainly true that guys like Mr. Davis and
19 Mr. Gill, they expressed a desire to get revenge, didn't they?

20 A Yes, sir.

21 Q And you said that you heard that there was a green light
22 to shoot --

23 A Yes, sir.

24 Q -- the people responsible?

25 Okay. But the person you heard that from that was

Bagley - cross

1 Capone, right?

2 A Yes, sir.

3 Q That was Maurice Davis, right?

4 A Yes, sir.

5 Q You never heard Dana Bostic say there was a green light on
6 anybody, did you?

7 A No, sir.

8 Q You never heard him say that everyone should get a gun,
9 did you?

10 A No, sir.

11 Q In fact, what you said was because of what Capone said,
12 you thought -- you thought that meant that Mr. Bostic was
13 saying he wasn't going to have anything to do with it and
14 people could do whatever they wanted, right?

15 A Yes, sir.

16 Q That he was putting up his hands and he wasn't going to
17 have anything to do with it, right?

18 A Yes, sir.

19 Q Okay. And the only reason you believe that at all is
20 because Maurice Davis said that, right?

21 A Yes, sir.

22 Q Maurice Davis, you knew him to be a violent person, right?

23 A Yes, sir.

24 Q He's a person that would go out and kill people if he was
25 angry with him, wasn't he?

Bagley - cross

1 A Yes, sir.

2 Q Okay. And he's the one that told you about this green
3 light, right?

4 A Yes.

5 Q You didn't get information about it from anybody else, did
6 you?

7 A No, sir.

8 Q Nobody else told you Dana Bostic ever said that, did they?

9 A No.

10 Q Okay. And when that happened, when Curtis Ellis died, you
11 were never present at a meeting at 4019 West Van Buren where
12 Mr. Bostic said to everybody there was a green light. You
13 were never there for a such a thing, were you?

14 A No, sir.

15 Q You never heard that at all, did you?

16 A No, sir.

17 Q Now, you did say you heard about some shootings happening
18 after Curtis Ellis died, right?

19 A Yes, sir.

20 Q But one of them you said you heard about, I think -- I
21 don't know if you said it in detail, but I know you said it
22 the last time.

23 You heard about one from Ladonta Gill, right?

24 A Yes, sir.

25 Q Where he told you he -- that was my work, and you thought

Bagley - cross

1 he meant that he did the shooting, right?

2 A Yes, sir.

3 Q Okay. But when he did it, Gill was talking about what he
4 was doing. He wasn't talking about Mr. Bostic telling him to
5 do anything, was he?

6 A No, sir.

7 Q Okay. Nobody ever told you Mr. Bostic told him to do any
8 shooting, did they?

9 A No, sir.

10 Q You never heard that on the street, did you?

11 A No, sir.

12 Q And, Mr. Bagley, you didn't actually have anything to do
13 with any shooting ever, did you?

14 A No, sir.

15 Q All you really knew about shootings was that more violent
16 guys like Capone and Gill would talk to you about them, right?

17 A Yes, sir.

18 Q And you would hear rumors on the street about people
19 getting killed, your neighborhood getting shot at, right?

20 A Yes, sir.

21 Q Okay. When those things happened, you never heard on the
22 street that it was Mr. Bostic that was telling people to do
23 these things, did you?

24 A No, sir.

25 Q You talked about hearing people say, we have got action,

Bagley - cross

1 right?

2 A Yes, sir.

3 Q People you would usually hear that from are these violent
4 people I was talking about before, Gill and Davis, right?

5 A Yes, sir.

6 Q Okay. And that meant that they were telling you the
7 shootings were going on, right?

8 A Yes, sir.

9 Q They weren't telling you Mr. Bostic had anything to do
10 with it, were they?

11 A Not at all.

12 Q Okay. In your experience knowing Maurice Davis and his
13 willingness to shoot people, you would agree with me that
14 Maurice Davis didn't need anybody's permission to go do a
15 shooting, did he?

16 A No, sir.

17 Q And he demonstrated that to you by the things that he
18 said, right?

19 A Yes, sir.

20 Q You never heard on the street that you had to get Mr.
21 Bostic's permission to shoot somebody, did you?

22 A No, sir.

23 Q That isn't true, is it?

24 A No, sir.

25 Q You have never seen Mr. Bostic with a gun, have you?

Bagley - cross

1 A No, sir.

2 Q You have seen Davis with guns, right?

3 A Yes, sir.

4 Q You said that sometimes people around Mr. Bostic had guns,
5 right?

6 A Yes, sir.

7 Q But even that wasn't very often, was it?

8 A No, sir.

9 Q And you never ever heard Mr. Bostic direct anybody to do
10 anything with a gun, did you?

11 A No, sir.

12 Q And you never ever saw him act violently toward anybody,
13 did you?

14 A No, sir.

15 Q You sometimes went to 4019 West Van Buren to hang out,
16 right?

17 A Yes, sir.

18 Q Shot dice there, smoked weed there, played video games
19 there, that kind of stuff, right?

20 A Yes, sir.

21 Q And you would see him there, Mr. Bostic?

22 A Yes, sir.

23 Q You saw him there many times, right?

24 A Yes, sir.

25 Q When you didn't hang out with him in person, you heard him

Bagley - cross

1 interact with people, right?

2 A Yes, sir.

3 Q And you never heard him act -- make any statement
4 indicating he wanted anybody to be violent, did you?

5 A No, sir.

6 Q You never heard him show any illustration that he wanted
7 to have anything to do with violence, did you?

8 A No, sir.

9 Q In fact, all the time that you saw Mr. Bostic, what you
10 observed was somebody who was avoiding violence and didn't
11 want it to happen, right?

12 A Yes, sir.

13 Q As far as selling heroin went, after Mr. Ellis died, it
14 was Brandon Richards who told you to pass out the drugs,
15 right?

16 A Yes, sir.

17 Q Brandon Richards gave you the packs, right?

18 A Yes, sir.

19 Q Brandon Richards told you to collect the money, right?

20 A Yes, sir.

21 Q Brandon Richards told you what the count was, right?

22 A Yes, sir.

23 Q He's the guy you saw every day, right?

24 A Yes, sir.

25 Q And when you would see Mr. Bostic, he would come to the

Bagley - cross

1 neighborhood, right?

2 A Yes, sir.

3 Q I mean, he wasn't hiding, was he? He was there all the
4 time, right?

5 A Yes, sir.

6 Q And what he would do, he would ride by with Mr. Richards
7 or sometimes with Mr. Hunter, Christopher Hunter, when they
8 would be handing out heroin, right?

9 A Yes, sir.

10 Q He didn't deliver it himself, but he was around; everybody
11 saw him, right?

12 A Yes, sir.

13 Q At least he wasn't hiding himself, right?

14 A No, sir.

15 Q And you talked about possessing or processing heroin at a
16 table and seeing people package and process heroin. You never
17 saw Mr. Bostic do that, right?

18 A No, sir.

19 Q You assumed that he did because you know he was involved
20 from word on the street and making the drug dealing happen and
21 having the heroin source of supply, right?

22 A Yes, sir.

23 Q And you would agree with me that you never -- Mr. Bostic,
24 you never heard anything to suggest that he had some sort of
25 leadership position in the New Breeds, did you?

Bagley - cross

1 A You say what now?

2 Q That he had a leadership position in the New Breeds. You
3 don't know anything about that, do you?

4 A No.

5 Q You never heard that he was a chief or something like that
6 in the New Breeds, did you?

7 A No, sir.

8 Q What?

9 A No, sir.

10 Q That isn't right, is it?

11 A No, sir.

12 Q As far as you understood it from what you observed living
13 in the neighborhood and working in this organization every
14 day, Mr. Bostic's involvement with it was, as far as you
15 observed and understood, he was the one connected to the
16 supplier who could get the heroin out there for sale, right?

17 A Basically, yes.

18 Q That's why he --

19 When people said that Bostic ran the spot, as you
20 understood it, the reason for that was really because he was
21 the one that could bring the heroin, so he was the one that
22 had the control, right?

23 A Yes, sir.

24 Q He controlled when the heroin came in. That was the
25 extent of what he was doing on that spot as far as you

Bagley - redirect

1 understood and saw, right?

2 A Yes, sir.

3 MR. BRINDLEY: Your Honor, can I have one minute?

4 THE COURT: Sure.

5 (Brief interruption.)

6 BY MR. BRINDLEY:

7 Q Mr. Bagley?

8 A Yes, sir.

9 Q I don't have any further questions for you at this time.

10 THE COURT: Redirect.

11 MS. BIESENTHAL: Thank you, Judge.

12 REDIRECT EXAMINATION

13 BY MS. BIESENTHAL:

14 Q Mr. Bagley, you were just asked about your assumption that
15 Mr. Bostic was also responsible for processing and packaging
16 the heroin.

17 Do you remember those questions?

18 A Yes, ma'am.

19 Q Once you took over Lee Floyd's responsibilities, were you
20 responsible for actually picking up the heroin once it was
21 ready to be distributed on the corner?

22 A Yes, ma'am.

23 Q From where ordinarily would you go and pick up the heroin
24 once it was ready for distribution?

25 A Either a side street or gas station or some -- a later

Bagley - redirect

1 time it was at Gill's residence.

2 Q Were there times when you would see Dana Bostic when you
3 went to go pick up the heroin?

4 A Several.

5 Q How often would you see Dana Bostic when you went to pick
6 up the heroin?

7 A At the most I was thinking about like four times at the
8 most.

9 Q And during those four times, where was Dana Bostic when
10 you saw him when you went to go pick up the heroin after it
11 was processed and packaged?

12 A He would ride past or like once or twice he was in the
13 car.

14 Q Now, you talked about the conversation that you had with
15 Maurice Davis when Maurice Davis said there was a green light?

16 A Yes, ma'am.

17 Q And you said that you understood that to mean that Mel or
18 Mellow wasn't going to stop anybody, right?

19 A Yes, ma'am.

20 Q Why would it be that Mel or Mellow would need to tell a
21 group of people that he wasn't going to stop them from doing
22 anything?

23 A Because he --

24 MR. BRINDLEY: Judge, speculation as to that
25 question. It calls for speculation.

Bagley - redirect

1 THE COURT: Overruled. You can answer.

2 BY THE WITNESS:

3 A 'Cuz like we looked up to him and, like, if he tell us,
4 like, don't do something, just don't do it, like that's what I
5 felt like that's what it meant.

6 BY MS. BIESENTHAL:

7 Q Was the opposite also true? If he told you to go do
8 something, would people go do it?

9 A He would say it.

10 Q Was there ever a situation in which you were out of the
11 spot and you heard Dana Bostic talking about guns or asking
12 about guns?

13 A He would say, do you got it out here.

14 Q How often did you hear Dana Bostic out at the spot saying,
15 do you got it out here?

16 A Several time.

17 Q What did you understand him to mean when he was asking
18 questions like, do you got it out here?

19 A Do somebody got a gun on the premises.

20 Q And what was your understanding as to why Dana Bostic
21 would be asking whether somebody has got it out there?

22 A Because we was in two -- like with different areas and
23 stuff, so I guess he just trying to make sure there's
24 protection out there.

25 MS. BIESENTHAL: One moment, Judge.

Bagley - recross

1 THE COURT: All right.

2 (Brief interruption.)

3 MS. BIESENTHAL: Nothing further.

4 THE COURT: Anything else, Mr. Brindley?

5 MR. BRINDLEY: Yes.

6 RECROSS EXAMINATION

7 BY MR. BRINDLEY:

8 Q Mr. Bagley, counsel for the government was asking you
9 about this green light statement, and you said that -- what
10 you said was people in the neighborhood looked up to Mr.
11 Bostic, right?

12 A Yes, sir.

13 Q And so if you knew that he was putting up his hand and not
14 saying he was going to do anything with it, that that might
15 matter to people, right?

16 A Yes, sir.

17 Q Okay. But you never heard Mr. Bostic suggest that anybody
18 should do any shooting, right?

19 A No, sir.

20 Q And, in fact, everything you observed suggested he avoided
21 violence and wanted you guys to avoid violence as far as you
22 could observe and understand as much as possible unless you
23 were attacked, right?

24 MS. BIESENTHAL: Objection, Judge. That misstates
25 his testimony.

Bagley - recross

1 THE COURT: It's a question. It's fine. You can
2 answer it.

3 THE WITNESS: Can you repeat the question?

4 BY MR. BRINDLEY:

5 Q You would agree with me that based on your understanding
6 of how things worked in the neighborhood and your observations
7 of Mr. Bostic, what was true about Mr. Bostic was from your
8 observations, he didn't want to have anything to do with
9 violence, and as far as looking up to him, he wanted you guys
10 to avoid violence as much as possible, isn't that right?

11 A Yes, sir.

12 Q Unless somebody was attacking you, right?

13 A Yes, sir.

14 Q Having the guns on the corner in the event somebody takes
15 a shot at you, you have to be protected, that's it, right?

16 A Yes, sir.

17 Q But he was not a guy that was ever out telling people that
18 you heard to go do violence to anybody, right?

19 A Yes, sir.

20 Q Even after his brother was shot, you never heard anybody
21 say that Dana Bostic told him to go be involved in any
22 shooting at all, did you?

23 A No, sir.

24 Q The only person that ever mentioned that green light to
25 you was Capone, Maurice Davis, right?

Thomas - direct

1 THE COURT: We don't need to recover the whole cross.

2 MR. BRINDLEY: I'm sorry, Judge. Very good. No
3 further questions.

4 MS. BIESENTHAL: Nothing further.

5 THE COURT: We're going to take a 10-minute break.

6 (Witness excused.)

7 (Brief recess.)

8 THE COURT: You can have a seat.

9 The next witness is?

10 MS. CHURCH: The government calls Cornelius Thomas.

11 (Witness sworn.)

12 THE COURT: You can go ahead.

13 CORNELIUS THOMAS, PLAINTIFF'S WITNESS, DULY SWORN

14 DIRECT EXAMINATION

15 BY MS. BEST:

16 Q Would you please state your name and spell your last name
17 for the record?

18 A Cornelius Thomas, T-h-o-m-a-s.

19 Q Mr. Thomas, how old are you?

20 A 24.

21 Q Where are you from?

22 A Chicago, Illinois.

23 Q Where about in Chicago?

24 A West Side.

25 Q How far did you go in school?

Thomas - direct

1 A Ninth grade.

2 Q Where do you currently live?

3 A Right now, Kane County.

4 Q How long have you been in custody?

5 A 24 months.

6 Q Before you were incarcerated, did you use any narcotics?

7 A Yes.

8 Q What narcotics did you use?

9 A Marijuana.

10 Q About how frequently did you use marijuana?

11 A Every day.

12 Q Have you ever been convicted of a crime, Mr. Thomas?

13 A Yes.

14 Q Were you convicted in or about October of 2003 of a
15 juvenile possession of cannabis?

16 A Yes.

17 Q Were you sentenced to a year of probation for that?

18 A Yes.

19 Q Were you convicted in February 2004 of juvenile disorderly
20 conduct and sentenced to 18 months of probation?

21 A Yes.

22 Q Were you convicted in August of 2005 of manufacture and
23 delivery of a controlled substance?

24 A Yes.

25 Q Was that controlled substance heroin?

Thomas - direct

1 A Yes.

2 Q Were you sentenced to 24 months of probation?

3 A Yes.

4 Q Were you sentenced in September of 2006 of possession of a
5 controlled substance?

6 A Yes.

7 Q Was that controlled substance also heroin?

8 A Yes.

9 Q Were you again sentenced to 24 months of probation?

10 A Yes.

11 Q Were you convicted in December of 2006 of criminal
12 trespass to a residence and damage to property?

13 A Yes.

14 Q And were you sentenced to 45 days of incarceration?

15 A Yes.

16 Q Have you also been convicted in this case?

17 A Yes.

18 Q Were you convicted of conspiring with others to distribute
19 heroin?

20 A Yes.

21 Q Did you plead guilty in that case pursuant to a plea
22 agreement?

23 A Yes.

24 Q Why did you plead guilty pursuant to a plea agreement?

25 A Because it was the best offer I could have gotten.

Thomas - direct

1 Q So it was to potentially help with the sentence that you
2 might receive?

3 A Yes.

4 Q Do you understand what you have to do as -- what is
5 required by the plea agreement?

6 A Yes.

7 Q And what is required by the plea agreement?

8 A Cooperate fully and truthfully.

9 Q Does that include testifying truthfully here today?

10 A Yes.

11 Q Have you been sentenced yet?

12 A No.

13 Q Do you know who is responsible for sentencing you?

14 A Yes.

15 Q Who is that?

16 A Judge Kennelly.

17 Q Do you know Dana Bostic?

18 A Yes.

19 Q How do you know him?

20 A From being in -- living in the same neighborhood,
21 whatever, that we from.

22 Q How long have you known him?

23 A You mean how long prior to this case, whatever, just a
24 little while before this case.

25 Q You testified that you have two heroin convictions, is

Thomas - direct

1 that correct?

2 A Yes.

3 Q The first one was in 2005?

4 A Yes.

5 Q In 2005 what were the circumstances behind that first
6 arrest -- first conviction?

7 A What do you mean, like two years' probation?

8 Q Excuse me. I'm sorry.

9 THE COURT: What did the case involve?

10 THE WITNESS: Serving undercover.

11 BY MS. BEST:

12 Q Do you know whose heroin you were selling in 2005 when you
13 were arrested and convicted?

14 A Yes.

15 Q Whose was it?

16 A Dana Bostic's.

17 Q So you have known Dana Bostic since approximately 2005?

18 A I mean, I knew of him, not actually knew him. I knew of
19 him, yes.

20 Q Okay. How did you know of him?

21 A Through other people, or whatever, there from the
22 neighborhood, or whatever.

23 Q What other people did you know about Dana Bostic? Through
24 what other people did you know about Dana Bostic?

25 A Like friends, whatever, I mean, talk about him, whatever.

Thomas - direct

1 Q Let me back up a little bit.

2 In 2005 you were convicted for selling heroin to an
3 undercover officer, correct?

4 A Yes.

5 Q When did you first begin selling heroin?

6 A Around like the beginning of 2005 or whatever.

7 Q When you began selling heroin, who were you working with
8 or for, if anyone?

9 A I was working with friends or whatever. We was on Van
10 Buren or whatever.

11 Q Who were the friends that you were working with on Van
12 Buren?

13 A My friends G-Ball, Lil' One, Bagley.

14 Q So let me back up a minute.

15 Do you know G-Ball's true name?

16 A No. Just know his last name's Bagley or whatever.

17 Q His last name is Bagley.

18 And you mentioned Lil' One. Do you know Lil' One's
19 true name?

20 A Aaron Bagley.

21 Q Was G-Ball Lil' One or Aaron Bagley's brother?

22 A Yes.

23 Q Were you working with anyone else when you began selling
24 heroin in 2005?

25 A Yes.

Thomas - direct

1 Q Who else were you working with?

2 A My friend, my friend Richie. There was a lot of people
3 out there. I mean, I don't know like everybody name exactly.

4 Q When you began selling heroin in 2005, was it important to
5 you to know who you got heroin from, whose heroin it was that
6 you were selling?

7 A No.

8 Q But at some point, did you learn whose heroin it did --
9 who the heroin did belong to?

10 A Yes.

11 Q And when did you learn that approximately?

12 A Probably like 2006, somewhere around there, around my
13 second case.

14 Q And how did you learn whose heroin you were selling?

15 A Through friends, whatever, still same, talking to friends
16 or whatever, and they talk about it.

17 Q What did your friends tell you?

18 A They tell me it was Bird's stuff or whatever.

19 Q Who did you know Bird to be?

20 A Dana Bostic.

21 Q Did you understand what it meant that it was Bird's
22 heroin, what that meant for how you obtained the heroin?

23 A No.

24 Q How did you get the heroin that you were selling beginning
25 in 2005?

Thomas - direct

1 A How did I get it?

2 Q Yes.

3 A I mean, like I asked my friends, whatever, I thought might
4 be selling drugs or whatever, you know, and they was making
5 money or whatever, and I asked them, you know, how can I make
6 some money and they --

7 THE COURT: I think she's asking more who brought it
8 to you, who did you get it from directly.

9 THE WITNESS: I got my heroin like from Garland
10 Bagley or Aaron Bagley.

11 BY MS. BEST:

12 Q Is Garland Bagley G-Ball?

13 A Yes.

14 Q That's his full name?

15 A Yes.

16 Q But at some point you did learn that that heroin belonged
17 to Bird or Dana Bostic?

18 A Yes.

19 Q Were you allowed to sell drugs that did not belong to Bird
20 when you were out selling on Van Buren?

21 A No.

22 Q Why not?

23 A I mean, like it was his neighborhood or whatever, his
24 territory. We not supposed to sell nothing what was his.

25 Q What did you understand that to mean, that it was his

Thomas - direct

1 territory?

2 A Like area or whatever that we was selling drugs in.

3 Q What area was that?

4 A Like Pulaski, Van Buren, Karlov.

5 Q And if you didn't abide by those rules, what would happen?

6 A I mean, you wouldn't be able to hustle or you would be
7 confronted about it or whatever.

8 Q What would happen if you were confronted?

9 A I mean, it could be a fight or you could just -- you just
10 wouldn't be able to sell drugs or whatever.

11 Q Were you ever subjected to violence for selling heroin
12 that did not belong to Bird?

13 A Yes.

14 Q What happened when you were subjected to that violence?

15 A Me and Capone got into an altercation or whatever.

16 Q What happened during the course of that altercation?

17 A I was serving heroin or whatever, he saw me or whatever,
18 and he slapped me upside my head when he found out that it
19 wasn't part of the neighborhood's or whatever. It was from
20 somewhere else.

21 Q And how did he learn that it wasn't the neighborhood's
22 heroin?

23 A Because it wasn't no heroin out there when I started or
24 whatever.

25 Q Do you know --

Thomas - direct

1 Do you understand why Capone then slapped you, what
2 the rationale for it was?

3 A Because I was selling some heroin that wasn't supposed to
4 be sold around there.

5 Q Do you believe that he did that on his own or he was
6 ordered to do it by someone else?

7 A I'm not sure. I think he did it on his own. Like he saw
8 me or whatever, he approached me about it.

9 Q Do you know if anyone else was ever subjected to acts of
10 violence because of serving heroin that didn't belong to Bird?

11 A No, not personally.

12 Q So you said you didn't know that the heroin was Bird's
13 when you first started selling it. Did you ever hang out with
14 him personally?

15 A No.

16 Q Did you ever talk to him?

17 A No.

18 Q Did you ever see him when you were hanging out, though, in
19 the neighborhood?

20 A I mean, I saw him a few times but never like close up
21 where we had a conversation or whatever.

22 Q Did you ever hang out with any of his friends at any
23 social events?

24 A Not really. I mean, I went to a get-together or whatever.
25 It was for somebody that passed away or whatever, but, I mean,

Thomas - direct

1 I left. I wasn't there long or whatever.

2 Q And what was that event, that get-together, that you went
3 to?

4 A I think it was like a Father's Day event or something. It
5 was like a Father's Day event or something going on at the
6 playground or whatever, and I stuck around for a little while,
7 but I didn't stay there long.

8 Q Let me just back up a little bit. When was that, Father's
9 Day of what year?

10 A Probably like 2009.

11 Q Okay. And what was --

12 You said it was an event for someone who passed away.

13 Do you know who that person was?

14 A I think his name Dro, something like that, like the
15 nickname Dro. I don't know his real name or nothing like
16 that.

17 THE COURT: What is the nickname?

18 THE WITNESS: Dro.

19 THE COURT: Dro.

20 BY MS. BEST:

21 Q Did you hear the person also referred to as Boodro
22 occasionally?

23 A Yes.

24 Q And where was that get-together held?

25 A Van Buren and Keefer.

Thomas - direct

1 Q Where specifically, do you remember?

2 A It was like a parking lot. It was like a parking lot
3 behind school area.

4 Q Which school?

5 A Melody.

6 Q And you went to the event. Do you recall anything else
7 about the event when you attended?

8 A While I was there?

9 Q Yes.

10 A I mean, it was a lot of people there, whatever. You know,
11 everybody, they was enjoying theirselves or whatever. But, I
12 mean, after -- I came, and when I ran into a female or
13 whatever that I knew, me and her left or whatever.

14 Q And what happened after you left the party?

15 A We went to my house.

16 Q And did you hear about anything else that occurred that
17 night of the party after you left?

18 A Yes. I mean, the next morning I heard that someone got
19 killed or whatever.

20 Q Do you know who it was who died?

21 A Yes, somebody named Lee.

22 Q And did you hear what happened to Lee?

23 A Yes. I heard that they was still at the party or whatever
24 and they started shooting or whatever and he got -- somebody
25 started shooting or whatever, and he got shot.

Thomas - direct

1 Q Did you know Lee's full name?

2 A No.

3 Q Was that the only event that you went to that was also
4 attended by Bird?

5 A Yes, like -- yes, social gatherings, yes.

6 Q And why didn't you attend more events with Bird?

7 A I mean, I ain't like attend no -- like events with him
8 personally because I didn't know him. But, like, most of the
9 events or whatever, it was like every time you hear somebody,
10 somehow like a fight or something broke out or something.

11 Q So you didn't attend some of the events because there was
12 too much of a risk of a violence?

13 A Yes.

14 Q Turning to the acts of violence, did you ever witness
15 personally a shooting?

16 A Yes.

17 Q When was that?

18 A Like August '09.

19 Q August 2009?

20 A Yes. '08.

21 Q 2008.

22 And do you recall roughly when that occurred?

23 THE COURT: You mean what time of day?

24 MS. BEST: I'm sorry. That was poorly phrased. Let
25 me back up a little bit.

Thomas - direct

1 BY MS. BEST:

2 Q What kind of act of violence did you witness?

3 A It was a shooting.

4 Q Okay, I want to walk through some of the events leading up
5 to that shooting.

6 On the day that the shooting occurred, what were you
7 doing?

8 A I was chilling by my grandmother house on Congress.

9 Q What happened?

10 A I got a phone call or whatever by Capone or whatever. He
11 wanted to go steal a car or whatever. And we went to go steal
12 a car, but we end up going on Madison where a shooting started
13 at or whatever.

14 Q Let me back up a little bit. Why did Capone call you to
15 steal a car?

16 A I don't get the question.

17 Q Why would Capone call you to steal a car?

18 A I mean, I stole a car for him before or whatever.

19 Q Why had you previously stolen cars for Capone?

20 A For him to go do violence or whatever.

21 Q What makes you think that he was going to do violence with
22 the cars that you stole?

23 A I mean, I assume he was doing that because, you know, he
24 had his own car and he wanted a stolen car or whatever.

25 Q Had you ever given a stolen car to anyone else?

Thomas - direct

1 A Yes.

2 Q Who else had you given a stolen car to?

3 A Reggie Lord.

4 Q Why did you give Reggie Lord a stolen car?

5 A Because he told me he supposed to be doing -- shoot at
6 somebody or some other car or whatever.

7 Q How do you know Reggie Lord?

8 A Just hustling on Van Buren.

9 Q And when you say hustling, do you mean selling drugs?

10 A Yes.

11 Q Did you sell drugs with Capone as well? Is that how you
12 knew him?

13 A Yes.

14 Q And did you know whose drugs Reggie Lord was selling?

15 A Same drugs to me from Dana Bostic.

16 Q Do you know whose drugs Capone was selling?

17 A Same.

18 Q So these are all people that you had sold drugs with
19 around in the same neighborhood?

20 A Yes.

21 Q So when Capone called you up and asked you to steal a car,
22 what did you do in response?

23 A We met up and normally we go steal a car.

24 Q So what did you do on this particular day of the shooting?

25 A He called me. When he called me to go steal a car or

Thomas - direct

1 whatever, he asked me to meet up with him on Van Buren. I met
2 up with him. We got in the car and whatever. And we was
3 going -- going to go steal the car, but he got a phone call.

4 And on the phone call or whatever, I guess they told
5 him to go to Madison because we end up going on Madison and we
6 sat there or whatever.

7 Q Do you know who called him on the phone?

8 A No. I didn't -- he didn't tell me who was on the phone.

9 Q So after he received that phone call, you drove to
10 Madison, and do you know where on Madison, what it intersected
11 with approximately?

12 A Like Madison and Kildare.

13 Q And what happened then?

14 A He got back on the phone and said the person -- I guess
15 the person he was looking for was out there or whatever.

16 Q Do you know he was looking for someone?

17 A No.

18 Q Do you recall roughly whether the shooting happened --
19 when in time it happened relative to other shootings in your
20 neighborhood of people that you knew?

21 A You mean, like some shootings that happened before that or
22 whatever?

23 THE COURT: That would make two of us that didn't
24 understand the question.

25 MS. BEST: Your Honor, I apologize.

Thomas - direct

1 THE COURT: So try that again.

2 BY MS. BEST:

3 Q I'm going to keep going.

4 So what happened after you went to Madison and
5 Kildare. What happened next?

6 A I mean, he got on the phone and whatever. He told him
7 that the person was out there then. About five minutes later,
8 we pulled off and we met up on the side of ACT or whatever
9 with Tommy and Ladonta.

10 Q Who is Tommy?

11 THE COURT: You said ACT?

12 THE WITNESS: ACT, the high school.

13 THE COURT: The high school, okay.

14 BY MS. BEST:

15 Q Who is Tommy?

16 A Another person from the neighborhood that I was selling
17 drugs with.

18 Q Do you know his full name?

19 A Tommy Moore.

20 Q And who was Ladonta?

21 A Another person that I was selling drugs with.

22 Q And do you know his full name?

23 A Ladonta Gill.

24 Q Was there anyone else there when you pulled up by the ACT
25 high school?

Thomas - direct

1 A Yes, D-Mak.

2 Q So what happened when you pulled up with Capone at the ACT
3 high school?

4 A Ladonta was asking him to go with him instead of Tommy or
5 something because he didn't want Tommy to go with him.

6 Q Can you back up?

7 When you said Ladonta was asking him to go with him,
8 who was he asking?

9 A Capone.

10 Q And he was asking Capone to go with Ladonta Gill somewhere
11 else?

12 A Yes.

13 Q Do you know where he wanted to go?

14 A At that moment, no.

15 Q So what happened next?

16 A We went back on Madison or whatever, and like five minutes
17 later, Ladonta and Tommy come up to a vacant lot shooting or
18 whatever at two people that was standing in a store, like a
19 restaurant doorway or something.

20 Q Just to walk through this a little bit more, you were in a
21 car with Capone still, and you drove back to Madison?

22 A Yes.

23 Q And then where did you drive to after you and Capone left
24 the ACT high school, along Madison to where?

25 A I mean, we was on ACT. We on Kildare facing Washington.

Thomas - direct

1 We went on Washington to Kostner and came back around to
2 Madison.

3 Q Okay, and then what happened at that point?

4 A We parked on Madison like few doors down from where the
5 people were standing at that he shot at.

6 Q So you parked. What did you see next?

7 A I saw Ladonta and Tommy come to a vacant lot or whatever
8 walking towards them, and then they started shooting at the
9 two people that was standing in the doorway.

10 Q There were two people standing in the doorway of where?

11 A Like I'm not sure if it was a store or a restaurant, but I
12 think it was a restaurant.

13 Q And you witnessed Tommy Moore and Ladonta Gill start
14 shooting at two people?

15 A Yes.

16 Q What happened at that point?

17 A They tried to come to the car where we was at, but the
18 police came and the police started shooting at them or
19 whatever. So they ran off and the police was chasing behind
20 them, and we left.

21 Q After you witnessed a shooting --

22 Well, what did you understand the shooting to be
23 about? Did you --

24 Scratch that. I'm sorry.

25 Did you have an understanding as to why that shooting

Thomas - direct

1 occurred?

2 A No, not at that moment.

3 Q Did you later develop an understanding as to why it
4 occurred?

5 A I mean, I was talking to people or whatever, like my
6 friends and whatever, and they was telling me, like, it was
7 like a retaliation because somebody had just got killed or
8 whatever.

9 Q Who had just been killed?

10 A Curt.

11 Q Who is Curt?

12 A Bird's brother.

13 Q Do you know Curt's full name?

14 A I think Curtis. It's like Curtis or something. I'm not
15 sure.

16 Q Did you hear anything about the circumstances of Curtis'
17 death?

18 A You mean like why he got shot or something?

19 Q Yes.

20 A No.

21 Q What did you hear then about why this was retaliation for
22 Curt's murder?

23 A I didn't get that question.

24 Q You stated that you understood that this was retaliation
25 because someone had just been killed, correct?

Thomas - direct

1 A Yes.

2 Q What did you hear that made you think that?

3 A Like I'm talking to my friends and whatever, and they was
4 telling me, you know, like basically telling me what they,
5 like, they think that the person that they was shooting at or
6 whatever had something to do with that, to do with his murder
7 or whatever.

8 Q So you believed that the shooting was in retaliation
9 because those people had something to do with Curtis' murder?

10 A Yes.

11 Q At that point had you already spoken to Reggie Lord about
12 Curtis' murder?

13 A Yes.

14 Q And what had you spoken with Reggie Lord about?

15 A I mean, like we was smoking or whatever. He was telling
16 me like, you know, that he was chilling with Bird or whatever
17 and he told me about the green light or something.

18 Q What did he tell you about a green light?

19 A That basically like there's a green light on whoever, you
20 know, whoever, I guess, had something to do with his brother's
21 death or whatever.

22 Q What does the term "green light" mean to you, or what did
23 you understand it to mean when Reggie Lord told it to you?

24 A Like basically it's a go. It's a go to do whatever, I
25 guess.

Thomas - direct

1 Q Does that mean including acts of violence?

2 A Yes.

3 Q Does it mean including retaliatory shootings?

4 A Yes.

5 Q And when you were talking with Reggie Lord, what was your
6 understanding as to who the green light was on?

7 A I mean, I thought it was probably the Souls from Monroe,
8 whatever, because, I mean, I heard, like, people telling me,
9 like, that's who's coming on Van Buren shooting at a lot of
10 people because when we was out there selling drugs or
11 whatever, you know, like, they was telling them we can't even
12 sell drugs because they started shooting and stuff.

13 Q So you understood that the Souls from Monroe were shooting
14 in your neighborhood where you all were selling drugs?

15 A Yes.

16 Q Did you speak to anyone else about a green light?

17 A Lil' One.

18 Q Lil' One?

19 A Yes.

20 Q What was the discussion that you had with Lil' One about a
21 green light?

22 A It really wasn't a discussion. Like we was just sitting
23 there talking and whatever, and he was saying, like, there's a
24 green light and something about heads rolling. I mean, I
25 didn't really understand him too much.

Thomas - direct

1 Q When approximately was that conversation?

2 A You said when?

3 Q When?

4 THE COURT: Was it before or after the shooting you
5 were just talking about?

6 THE WITNESS: It was before.

7 BY MS. BEST:

8 Q Other than Ladonta Gill and Tommy Moore who you just
9 talked about, had you ever heard about anyone else committing
10 shootings, anyone else that you hustled with that you sold
11 drugs with?

12 A No.

13 Q When you -- when the shooting with Ladonta Gill and Tommy
14 Moore occurred, did you have any idea at whose direction that
15 they were working at that time?

16 A What do you mean?

17 Q Did you understand that they were shooters for anyone in
18 particular?

19 A I mean, I figured it was for retaliation for Bird's
20 brother. So, I mean, I don't know. I guess it was for him.

21 Q For Bird?

22 A Yes.

23 Q Did you understand that Bird was responsible for ordering
24 any particular shooting?

25 A Yes. I mean, I ain't like actually talk to him myself,

Thomas - direct

1 like him telling nobody or whatever. I figured that's who
2 they were shooting for.

3 Q And why did you figure that?

4 A Because his brother had just passed, and, I mean, I ain't
5 seen him have no other reason for shooting at people.

6 Q Did you believe that you were able to -- that you or the
7 other people that you sold drugs with were able to commit acts
8 of violence without Bird's permission?

9 A I'm not sure. I'm not sure about the question.

10 Q Did you believe -- well, I will stop there.

11 When you first came in to discuss your role in the
12 drug trafficking conspiracy, you didn't tell the government
13 about the act of violence that you just described, correct?

14 A Yes.

15 Q And you didn't discuss stealing cars for Maurice Davis and
16 Reggie Lord and others, correct?

17 A Yes.

18 Q Why didn't you talk about that when you first came in?

19 A Because I really -- when like -- I really didn't want -- I
20 really didn't want to cooperate at first or whatever.

21 Q Why not?

22 A Because, I mean, retaliation or whatever against, you
23 know.

24 Q So you were concerned about potential retaliation?

25 A Yes.

Thomas - cross

1 Q By whom?

2 A I mean, like people that I would have to testify against
3 or whatever.

4 Q But eventually you decided to tell the full truth?

5 A Yes.

6 Q And why is that?

7 A Because it was the only way to help myself out.

8 MS. BEST: May I have a moment, your Honor?

9 THE COURT: Sure.

10 (Brief interruption.)

11 MS. BEST: No further questions from the government,
12 your Honor.

13 THE COURT: Mr. Brindley.

14 MR. BRINDLEY: It's Mr. Jones, Judge.

15 THE COURT: Mr. Jones. Sorry about that.

16 CROSS EXAMINATION

17 BY MR. JONES:

18 Q Mr. Thomas, you have already pleaded guilty to your
19 involvement in the heroin dealing conspiracy, is that correct?

20 A Yes.

21 Q And you know that that is a really serious case for you?

22 A Huh?

23 Q You know that that's a very serious case?

24 A Yes.

25 Q And that's why you're here?

Thomas - cross

1 A Yes.

2 Q Because you want to, as you just said, help yourself out?

3 A Yes.

4 Q And when you say that, it means you're trying to get a
5 lower sentence, right?

6 A Yes.

7 Q Now, you have previously been convicted of drug offenses,
8 right?

9 A Yes.

10 Q And you have been in jail now for about 23 months or so?

11 A Yes.

12 Q And certainly you know what an 851 notice is then? You
13 don't have an 851 notice, right?

14 A What you mean like?

15 Q In your case, an enhancement.

16 A Not that I'm sure of. I mean, I had April --

17 THE COURT: Can we stipulate that there is no 851
18 notice?

19 MS. CHURCH: Yes, Judge.

20 THE COURT: There you go.

21 BY MR. JONES:

22 Q But you do have two previous convictions for drug dealing,
23 right?

24 A Yes.

25 Q Now, in this specific case here, you're hoping that you

Thomas - cross

1 will get less than ten years because of your cooperation with
2 the government, right?

3 A Yes.

4 Q In fact, 67 percent off the low end of your guideline?

5 A You say what?

6 Q 67 percent of the low end of your guideline, is that what
7 it says in your plea agreement?

8 A Yes.

9 Q Now, you have spoken with the prosecutors and law
10 enforcement on numerous occasions about this case, right?

11 A Yes.

12 Q You spoke with them right after you were arrested?

13 A Yes.

14 Q You met with them at the U.S. attorney's office on several
15 occasions?

16 A Yes.

17 Q And at different times you have told them different
18 things, right?

19 A Yes.

20 Q And you acknowledge that you have lied to the government
21 on several occasions, right?

22 A I minimized. I wouldn't say lied.

23 Q Well, when you --

24 You testified at another sentencing hearing just a
25 couple of weeks ago, right?

Thomas - cross

1 A Yes.

2 Q And at that hearing, you testified that you weren't
3 entirely truthful with the government, is that correct?

4 A Yes.

5 Q Now, you told them that --

6 You talked to the government about your involvement
7 in the New Breed street gang, is that right?

8 A Yes.

9 Q And you told them that you were not a member of the New
10 Breed street gang?

11 A Yes.

12 Q In fact, you said you weren't a member of any gang, is
13 that right?

14 A Yes.

15 Q But that wasn't entirely true, right?

16 A I was associated with members of gangs or whatever.

17 Q Right. And on a later occasion, you told the government
18 that you consider yourself to be a New Breed street gang
19 member when it suits you, right?

20 A Yes.

21 Q Now, during your meetings with the government, they asked
22 you specifically about your knowledge about shootings, right?

23 A Yes.

24 Q And when they asked you about your knowledge about
25 shootings, you didn't actually tell them at first about this

Thomas - cross

1 shooting that you observed firsthand, right?

2 A No, I didn't.

3 Q The one involving Ladonta Gill?

4 A No.

5 Q When they asked you about shootings, you said nothing
6 about that?

7 A Yes.

8 Q One thing you have been particularly consistent about when
9 you have spoken with the government is that you don't really
10 know Dana Bostic very well, do you?

11 A Yes.

12 Q In fact, you have told the government that you have never
13 actually met Dana Bostic, right?

14 A Right.

15 Q You have never actually spoken to Dana Bostic?

16 A Right.

17 Q So everything you know about --

18 Well, nothing you know about Dana Bostic is from
19 actually speaking with him, right?

20 A Yes.

21 Q The vast majority of what you know about Dana Bostic is
22 from what you have heard from other people?

23 A Yes.

24 Q Common knowledge on the street on the West Side, right?

25 A Yes.

Thomas - cross

1 Q Now, I want to talk briefly -- you talked on direct
2 examination about this instance where you were selling
3 somebody else's drugs on the street. Do you remember that?

4 A Yes.

5 Q And you said that Maurice Davis assaulted you on that day?

6 A Yes.

7 Q And just so I understand how that happened, he saw you
8 trying to sell these drugs, right?

9 A Yes.

10 Q And then he came over and he confronted you?

11 A Yes.

12 Q And he assaulted you, right?

13 A Yes.

14 Q Dana Bostic wasn't present, was he?

15 A No.

16 Q Before he hit you, Maurice Davis didn't get on the phone
17 and call Dana Bostic, did he?

18 A No.

19 Q I want to move forward and talk a little bit about the
20 testimony you gave about the shooting.

21 On the day of the shooting, it was Maurice Davis who
22 called you first. That's how you first met up with him is
23 because he called you, right?

24 A Yes.

25 Q He was going to have you go help him steal a car, is that

Thomas - cross

1 right?

2 A Yes.

3 Q Then he got a phone call to tell him to go to a specific
4 location, right?

5 A Yes.

6 Q And you went there?

7 A Yes.

8 Q Dana Bostic wasn't there?

9 A No.

10 Q You didn't have any contact with Dana Bostic on that day,
11 did you?

12 A No.

13 Q In fact, you didn't speak to him that day?

14 A No.

15 Q Because you had never spoken to him?

16 A Right.

17 Q When you got there, who was there was Ladonta Gill and
18 Tommy Moore and a person named D-Mak, right?

19 A Yes.

20 Q And after some conversation, you went to the location
21 where the shooting happened, is that right?

22 A Yes.

23 Q None of those people mentioned anything about Dana Bostic
24 to you during that time period, did they?

25 A No.

Thomas - cross

1 Q And you testified on direct examination about this idea
2 that there was a -- that Dana Bostic had said there was a
3 green light.

4 Do you remember that testimony?

5 A Yes.

6 Q And you said that's what -- why you think that these
7 people were shot?

8 A Yes.

9 Q Now, you testified about the same shooting at the previous
10 sentencing hearing, right?

11 A Yes.

12 Q And at that sentencing hearing, you were asked what you
13 thought the reason for the shooting was, right?

14 A Yes.

15 Q You said you thought it was because of the shooting of
16 Curt Ellis, right?

17 A Yes.

18 Q On direct examination, you said you heard this green light
19 thing before the shooting, right?

20 A Yes.

21 Q But when you were asked at the previous sentencing hearing
22 why you thought that shooting was about Curt Ellis, you said,
23 well, that was the only thing that had happened recently,
24 right?

25 A Yes.

Thomas - cross

1 Q At that previous sentencing, you didn't say, I thought it
2 was in retaliation for Curtis Ellis' killing because I heard
3 this green light. You didn't say that, did you?

4 A No, I don't think so.

5 Q You didn't mention this green light at all?

6 A I don't think so.

7 Q You mentioned also on direct examination that you thought
8 that the shooting was in retaliation for Curt Ellis because
9 there was no other reason for shooting at the people, right?

10 A Yes.

11 Q So you felt that that had something to do with this green
12 light, right?

13 A Yes.

14 Q But you knew Maurice Davis was close with Curt Ellis,
15 right?

16 A Yes.

17 Q You knew that Aaron Bagley was also close with Curt Ellis,
18 right?

19 A Yes.

20 Q And Maurice Davis was a person who was actually present
21 and involved in the shooting that you observed, right?

22 A Yes.

23 Q This green light statement that you talked about, you
24 didn't hear that from Dana Bostic, right?

25 A No.

1 Q You heard it from Aaron Bagley?

2 A I guess he was one of them.

3 Q So you don't know whether or not Dana Bostic actually said
4 that or not, is that correct?

5 A No.

6 Q And you don't know where Aaron Bagley heard it?

7 A No.

8 MR. JONES: No further questions.

9 THE COURT: Ms. Best, redirect?

10 MS. BEST: No, your Honor.

11 THE COURT: You're excused.

12 (Witness excused.)

13 THE COURT: Are there any other witnesses that you're
14 calling?

15 MS. CHURCH: Not from the government, your Honor.

16 THE COURT: Are you calling any witnesses?

17 MR. BRINDLEY: We're not calling any witnesses,
18 Judge. I have a couple of exhibits.

19 THE COURT: Why don't we deal with that next.

20 We're not going to finish this today. It's just too
21 late in the day, and I suspect everybody, including myself, is
22 too worn out to do that.

23 MR. BRINDLEY: Your Honor, if I could approach, I'm
24 going to offer into evidence Exhibit Regina Brady, which I
25 received today and I've provided to the government. This

1 relates to the testimony of Maurice Davis regarding the
2 incident with the girlfriend.

3 THE COURT: You have got a copy of this?

4 MS. CHURCH: I believe it was filed.

5 MR. BRINDLEY: It was filed and I emailed you.

6 MS. CHURCH: Thank you. I have not checked my email.

7 Judge, just so you're aware, we're objecting along
8 the same lines as the defendant objected to our presenting
9 just something written about witness statements. This
10 individual has made various accusations. She is not available
11 for cross examination. To the extent that --

12 We just don't think the Court should give it any
13 weight. Mr. Davis already admitted to --

14 THE COURT: Is this the person he was convicted of
15 domestic battery relating to, or do we know?

16 MS. CHURCH: It's possible. I'm not sure.

17 MR. BRINDLEY: I'm not sure if this is the same
18 person or not, Judge. I was provided with this affidavit
19 provided by that person --

20 THE COURT: Oh, this was the basis for some of the
21 cross.

22 MR. BRINDLEY: That's what I was talking about, yes,
23 your Honor.

24 THE COURT: You know, honestly -- and I understand
25 what you're saying. I mean, there's a autonomy of stuff that

1 I have been given here. I have been given an out-of-court
2 statement from Mr. Gill. I have been given -- so I will take
3 it and I think it goes to weight.

4 Okay. My concern, you know, on these witnesses here
5 was that, you know, it's a separate crime that the defendant
6 is being accused of, and so I thought that he, in fairness,
7 was entitled to confront the people on that.

8 All right. What was the other thing, Mr. Brindley?

9 MR. BRINDLEY: The other thing I wanted to say,
10 Judge, is I also -- and I filed these electronically this
11 afternoon. But I have an additional couple of letters that I
12 received from the family today.

13 THE COURT: All right.

14 MR. BRINDLEY: I know you already received them.

15 THE COURT: Just give them to Augie.

16 MR. BRINDLEY: I know you received one set. This is
17 the other set.

18 THE COURT: This is the other set, okay.

19 MR. BRINDLEY: The caption on the filing isn't there,
20 but those are the letters.

21 THE COURT: No worries. That's fine. You don't have
22 to give me another copy. I can just work with these. Okay.

23 MS. CHURCH: Judge, I have a couple exhibits.

24 THE COURT: Great.

25 MS. CHURCH: One is what I will mark as Government

1 Exhibit 4809, which is a line sheet of an intercepted call.

2 THE COURT: Does that mean there's 1 through 4808?

3 MS. CHURCH: Oh, there's more beyond that, your
4 Honor.

5 THE COURT: That's what I was afraid of.

6 MS. CHURCH: And there's what I will mark as --

7 THE COURT: You're not going to give me 1 through
8 4808, though.

9 MS. CHURCH: I'm not, your Honor.

10 THE COURT: Okay. This is good.

11 MS. CHURCH: What is marked for identification as
12 Government Exhibit 3610 Line Sheets, these were referenced in
13 some of the filings that we weren't able to attach the line
14 sheets. I have a copy.

15 THE COURT: Fine. Hand them to Augie, and she'll
16 give them to me.

17 MS. CHURCH: I also have a disk with some of the
18 intercepted calls, if your Honor wants to listen.

19 THE COURT: Yes, might as well.

20 MS. CHURCH: So I will mark these as government
21 Bostic calls, and I will remove it from my computer in just a
22 minute.

23 THE COURT: Okay. So what's left, I think, is
24 basically just to hear argument from both sides, give Mr.
25 Bostic his opportunity to talk, and then complete the

1 sentencing hearing.

2 And, honestly, from my perspective, it's important to
3 do this promptly. The longer it takes, the more I forget. Is
4 there a way we could finish this tomorrow?

5 MS. CHURCH: Yes.

6 MR. BRINDLEY: Yes, your Honor.

7 THE COURT: Okay. Hang on a second. I didn't ask
8 another person. I will ask the most important person first.

9 (Brief interruption.)

10 THE COURT: So could you do 9:30?

11 MS. CHURCH: Yes.

12 THE COURT: Let me just make sure I don't have
13 something else scheduled.

14 (Brief interruption.)

15 THE COURT: Yes, 9:30, 9:30 tomorrow.

16 So we'll order Mr. Bostic back over, but backstop us
17 on that.

18 MS. CHURCH: Yes.

19 MR. BRINDLEY: Your Honor, I do have one other
20 exhibit that Mr. Jones reminded me of. This is -- I marked as
21 Exhibit Davis A. This is the agent report from the
22 November 2nd interview where Mr. Davis did indicate that he
23 used to hang out at Mr. Ellis' residence. I don't know why he
24 denied that today, but I did ask him. So I wanted to give
25 your Honor --

1 THE COURT: All right. And I'm not going to make
2 people prove up agents to say -- or call in agents to say,
3 this is what he told me.

4 The two things that you gave me, Ms. Church, they're
5 both line sheets, right?

6 MS. CHURCH: Yes, Judge.

7 THE COURT: All right.

8 MS. CHURCH: So they're draft transcripts.

9 THE COURT: Draft transcripts, right. Okay.

10 MS. CHURCH: I will pass up the disk in just a
11 moment.

12 THE COURT: All right, great. So I will see you
13 tomorrow morning at 9:30.

14 MR. BRINDLEY: Thank you, your Honor.

15 MS. CHURCH: Thank you.

16 THE COURT: Thanks.

17 (The proceedings were adjourned until August 3, 2012, at
18 9:30 a.m.)

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