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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 3, 2012
Defendant.	)	9:30 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 All right. Mr. Bostic is present. Mr. Bostic, you  
5 can just go ahead and have a seat.

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

8 MR. BRINDLEY: Good morning, your Honor; Beau  
9 Brindley and Joshua Jones on behalf of Mr. Bostic.

10 THE COURT: I'm going to give you this disk back.

11 One little housekeeping thing that you probably know  
12 about, but just in case. You know, I read most stuff on here,  
13 and it was driving me nuts that I couldn't find some of the  
14 exhibits to your consolidated thing. The one that is on the  
15 docket doesn't have all the exhibits, and since nowadays when  
16 it goes up on appeal, it's the electronic version, you should  
17 fix that at some point.

18 MS. CHURCH: I will, Judge. I wasn't able to. It  
19 was too vague.

20 THE COURT: Yes. So what you end up having to do is  
21 break it into pieces.

22 MS. CHURCH: Okay.

23 THE COURT: Okay. Both sides ready to proceed?

24 MR. JONES: We are.

25 MS. CHURCH: Yes, Judge.

1           THE COURT: Okay. So what I'd like to do is I will  
2 have the government speak first, Mr. Brindley second, or  
3 Mr. Jones, whoever is going to talk. I will give you a chance  
4 to respond to anything you need to. Everybody will get to say  
5 what they need to say, and then Mr. Bostic gets to speak last.

6           So you can have a seat. You don't have to stay  
7 standing up.

8           MR. BRINDLEY: Thank you, your Honor.

9           MS. CHURCH: Judge, this defendant in this sentencing  
10 isn't just about that green light that you heard about  
11 yesterday. This is about someone who was in charge. That was  
12 the defendant. He was in charge of a criminal organization.  
13 He had many, many, many people underneath him who were doing  
14 his work, who knew who they were working for even when he  
15 wasn't the one giving them the direct orders. And he did give  
16 direct orders. You heard about those orders from Morris  
17 Davis.

18           And you have seen those calls. You have seen grand  
19 jury testimony. You have seen police reports. Putting it all  
20 together shows you that he was in control and he gave that  
21 green light. We're asking for a sentence of more than  
22 40 years' imprisonment for Dana Bostic. He was Bird. He was  
23 Mellow. He was Big Gangster. He was in those calls giving  
24 those directions.

25           There is one call, call number 5751, that followed

1 the beating of Reggie Lord, which Maurice Davis testified  
2 about yesterday. In that call, Brandon Richards tells Maurice  
3 Davis in that call:

4 "Big Guy, say, man, y'all better go back over there  
5 and beat their asses."

6 And then a few minutes later, in call 5754, Richards  
7 tells Davis:

8 "Mellow say don't go grabbing one of them -- for them  
9 guys over there," to paraphrase a little bit.

10 Go back over there and retaliate for that beating,  
11 but this time don't bring a gun. He knew that his directions  
12 were going to be followed. He knew what the response was  
13 going to be, and so he wanted to make sure in this particular  
14 instance it was a measured response. Retaliation and violence  
15 is what this guy and his organization were about because they  
16 are what kept him in control and kept him in his position as  
17 CEO. And so when you look at all of that evidence, it shows  
18 the whole picture of who this guy is and why that very  
19 significant sentence is entirely appropriate.

20 Now, in this courtroom you have seen a lot of the  
21 people who worked for him over about a year, from 2009 to  
22 2010. Some of them worked for him before, some of them worked  
23 after at various periods of time. But they all knew who they  
24 were working for. They were working for him. He didn't have  
25 to tell those lowest level guys on the street, Parish

1 Mitchell, Tommy Adams, whose heroin they were selling.  
2 Everyone knew because he was in charge for almost a decade.  
3 In life on the streets, that is almost inconceivable, and part  
4 of that is because he had created this organization that was  
5 almost untouchable at the highest levels.

6 You saw some of these guys who were coming in here  
7 with extensive criminal histories, some of which counted and  
8 some of which didn't because it was all a part of the same  
9 conspiracy, his conspiracy. Some of these guys were barely  
10 out of their teens. Some of them were older guys, but they  
11 all worked for him.

12 You saw his girlfriend, Mahogany Barbee, who was here  
13 and convicted of a felony offense in federal court because of  
14 him, and she is still supporting him today, your Honor. She  
15 testified against him in the grand jury, but she is still here  
16 for him today. That tells you what kind of power this guy has  
17 over the people who were with him and who worked for him.

18 Week in and week out he went and got heroin from his  
19 suppliers. Thousands and thousands of dollars he and Brandon  
20 Richards gathered together and went to meet Eddie Valentino or  
21 other suppliers where they got that wholesale quantity of  
22 heroin which they brought back to safe locations, to James  
23 Kirkendall's house, to Ladonta Gill's apartment. And they  
24 mixed it and bagged it with Christopher Hunter, with Ladonta  
25 Gill, and then they got it out to the street.

1           There were all of these people in his organization  
2 who were there to make him money and to protect him at the  
3 same time. He wasn't the guy who had to drive around  
4 delivering those blows of heroin to the street supervisors or  
5 to the pack workers, the street sellers. He was able to get  
6 that heroin out and to take -- and then to take a seat and  
7 wait for his money to roll back in.

8           When his lower level guys called him, when they  
9 wanted to find out direction if they couldn't get ahold of  
10 Brandon Richards, he said: Don't call my phone. I don't know  
11 what you're talking about. He wanted to do his best to make  
12 sure that he was protected. That's what his organization  
13 existed for, and that's what all of that violence  
14 accomplished. He had other people doing his dirty work.

15           Maurice Davis was one of those people. You have seen  
16 him and heard him twice now, and there is no doubt that he is  
17 a cold-blooded killer. He went out six or seven times and  
18 participated in shootings. He was there when people were  
19 murdered. He knew what purpose he had in going out. He knew  
20 why he was out there. He knew why there was so much shooting  
21 going back and forth.

22           Capone, Maurice Davis, was his guy, his worker, his  
23 shooter. When he was giving those directions to Brandon  
24 Richards to tell Maurice Davis, he expected Maurice Davis to  
25 follow them, and that's exactly what Maurice Davis did when it

1 involved Reggie Lord, when it involved guns, when it involved  
2 shootings, when it involved murder. That is all on him.

3 The fact that he was such a cold-blooded person who  
4 got excited about going out and killing people, that's what  
5 made him so valuable to this defendant. You need a shooter  
6 without a conscience, and that's exactly what Maurice Davis  
7 is. He's not lying to you about any of that.

8 Now, we recognize that the only person who was at  
9 that meeting at 4019 West Van Buren when the defendant gave  
10 that green light was Maurice Davis. It wasn't Aaron Bagley.  
11 It wasn't Cornelius Thomas. They weren't included in those  
12 meetings. Other people were. Tommy Moore, Nigel Odum, people  
13 like LC or Maniac, Charles Cowert, other people who were his  
14 killers.

15 From what you heard from Davis and from what you have  
16 seen in all of the other evidence, you know that he gave that  
17 green light. Davis told you about what was going on, how this  
18 all came about, how Curtis Ellis and Dana Bostic were at the  
19 Excalibur nightclub, and Curtis Ellis got into a fight with  
20 Tony Allen, an NBA basketball player. Curtis Ellis told  
21 Maurice Davis that he smacked Tony Allen, and shortly  
22 thereafter the defendant and Curtis Ellis were gunned down on  
23 Clark Street. Curtis Ellis died. The defendant was wounded.  
24 Maurice Davis told you who went and visited the defendant in  
25 the hospital. Mahogany Barbee said the same thing in her

1 grand jury testimony. Davis was there. And later there were  
2 all sorts of guys with guns outside of their house for their  
3 protection.

4           The shootings that followed Curtis Ellis' death were  
5 in retaliation for that case of mistaken identity. Tony Allen  
6 thought Curtis Ellis was Nigel Odum, and you have seen the  
7 police reports dealing with the shooting at the White Palace  
8 Grill that occurred in August of 2002. Nigel Odum and Mark  
9 Twain Johnson were there. They were injured when Tony Allen  
10 and Scoop, whose real name is Claudius Fincher, got into a  
11 fight with Mark Twain Johnson. There was a shooting. They  
12 were injured. They sued Tony Allen. And Tony Allen wanted to  
13 know why Nigel was snitching. But he actually had Curtis  
14 Ellis, and Curtis Ellis was killed.

15           Nigel Odum and Mark Twain Johnson were in Tommy  
16 Moore's car at that gas station for D-Low's murder. And the  
17 defendant was arrested in this case at Nigel Odum's house in  
18 August of 2010. These were his guys, his crew, his shooters,  
19 his killers.

20           Aaron Bagley testified yesterday that he had heard  
21 from Maurice Davis that Bostic had given the green light, and  
22 it was at the time that Bostic had given the green light. It  
23 wasn't months later; it was then. Maurice Davis wouldn't have  
24 any reason to make up the fact that their boss had given the  
25 green light and tell that to Aaron Bagley.

1           And you have heard and seen evidence of those  
2 murders, of the murder and the shootings that followed. You  
3 have seen the video of the murder of D-Low at that gas  
4 station. You see D-Low getting out of his car walking into  
5 the gas station. You see Maurice Davis' car pulling in and  
6 someone getting out, someone who matches the general  
7 description of Ladonta Gill -- but you can't really tell --  
8 him walking around and, when D-Low was there at his car, fires  
9 two shots, gets back in the car, and they pull off. And then  
10 you see that other car pulling through right after the Impala.

11           For a long time the police didn't know who the  
12 shooter was. They couldn't put all of the pieces together,  
13 but they found that Impala, and they found out who was in that  
14 Impala that night. It was Tommy Moore, Nigel Odum and Mark  
15 Twain Johnson. They were there with Ladonta Gill, with  
16 Maurice Davis. That's part of the picture, and that's what  
17 Maurice Davis told you happened. It supports exactly what  
18 Maurice Davis told you. Maurice Davis told you why that other  
19 car was there. His plates were expired. He needed someone to  
20 make sure that the police couldn't pull in right behind him.  
21 It pulls it all together.

22           And Ladonta Gill later told Aaron Bagley, that's my  
23 work. He admitted to Aaron Bagley that he had committed that  
24 shooting, that he committed that murder. Maurice Davis isn't  
25 making this all up. He isn't making up that green light.

1 These were the defendant's guys who were out there acting for  
2 the defendant.

3 Then there was that third shooting, which you heard  
4 about from both Maurice Davis and Cornelius Thomas. Both of  
5 them were there. Both of them saw what happened. They saw  
6 Ladonta Gill and Tommy Moore coming through that vacant lot,  
7 shooting at those guys who were standing outside that  
8 storefront. Maurice Davis knew why they were there. He knew  
9 why that shooting was taking place because he was at a higher  
10 level. He was one of the guys who was willing to go out  
11 shooting.

12 Cornelius Thomas wasn't one of those guys. He was  
13 the guy that you called up for a stolen car or he passed out  
14 packs to. He wasn't one of the defendant's guys. He didn't  
15 ever meet the defendant, but he still works for the defendant,  
16 and when he was called upon to get that car, he did. You saw  
17 what happened. That guy was shot because he gave the green  
18 light.

19 Those weren't the only shootings or murders that you  
20 heard about. Maurice Davis yesterday went through shooting  
21 after murder after shooting after murder, and he explained  
22 they were at war. They were at war with the Four Corner  
23 Hustlers. They were at war with the Undertakers. There was  
24 constant retaliation and escalation for each fight, for each  
25 fight, for each shooting, for each killing, and that all makes

1 sense when you start piecing together all of these shootings  
2 and all of these murders.

3 He told you who the other shooters were: Pee Wee;  
4 Weedy, who goes by the James Williams and James Phelan. He  
5 was a shooter for the defendant. Maurice Davis told you that  
6 he went and shot up that Undertakers funeral, the guy who went  
7 by the nickname 450. There were also those intercepted calls  
8 with Brandon Richards, Dana Bostic, Maurice Davis, and Pee Wee  
9 during this wiretap. Brandon Richards was at the movies, and  
10 he saw four or five guys wearing those 450 shirts.

11 So what does he do? He calls his boss. He calls  
12 Dana Bostic and let's him know what's going on because he's  
13 scared. He wants to make sure it's all going to be okay. He  
14 tells Bostic he's going to call Capone. That's exactly what  
15 he did. He called Capone and let him know what was going on  
16 because he wanted to make sure that he would be there with a  
17 gun, if necessary.

18 He then calls Pee Wee for the exact same reason. He  
19 wants to make sure that Pee Wee was going to show up with a  
20 gun to protect him. All of that shows you who Pee Wee was,  
21 who James Williams, James Phelan was. He's also the guy who  
22 is currently sitting in Cook County Jail on armed robbery and  
23 felony murder charges. He was the guy who was arrested.

24 THE COURT: This is Phelan?

25 MS. CHURCH: Yes.

1 THE COURT: Okay.

2 MS. CHURCH: He was arrested following a high speed  
3 chase on armed robbery on the Eisenhower Expressway during the  
4 course of this investigation. He's a violent guy with guns,  
5 who is dangerous, and he's another one of his guys.

6 You heard about Charles Cowert, who is serving a  
7 51-year sentence for the murder of Lee Floyd. Maurice Davis  
8 talked to you about what happened there. On Father's Day  
9 2009, the defendant was holding a block party, a barbecue, in  
10 honor of Boodro, the guy who was the defendant before he was  
11 killed. Boodro had controlled the same territory that the  
12 defendant controlled. He was killed.

13 It is worth noting that Boodro is the same guy that  
14 the defendant was bringing up in that trial in Cook County  
15 Court, Eliaser Elvis. He was working for him for a long time.  
16 When he was killed, he took over his position and he honored  
17 him with that barbecue. He did it every single year. And his  
18 guys were out there on the street with their guns. A fight  
19 broke out when some girls started trash talking with the  
20 defendant's guys. Cowert slapped one of those girls, and then  
21 the shooting started.

22 Maurice Davis told you what he saw, what he heard,  
23 and what happened. As people started shooting, Lee Floyd was  
24 hit. He was killed. Charles Cowert committed that murder.  
25 Charles Cowert was one of this defendant's guys. It's also

1 worth noting that Maurice Davis said this wasn't his only  
2 shooting. Cowert was the guy who shot Weebo. He was out  
3 there with guns, a shooter, this defendant's guy.

4           There were also a number of calls that we have  
5 included in the materials for your Honor that involved the  
6 defendant talking with Cowert about his case, about who the  
7 witnesses were against Cowert. When Cowert said that he  
8 needed to talk to the defendant because he had to tell him  
9 something, the defendant said he already knew. He talked to  
10 everybody. Cowert told the defendant who those witnesses were  
11 because he thought the defendant could do something about it.  
12 Those calls show the defendant thought he could do something  
13 about it, too.

14           One of the things that comes across in so many of  
15 those calls is the danger of being a snitch in this guy's  
16 organization. He thought Tommy Moore was cooperating with law  
17 enforcement, and there were a lot of calls about that that he  
18 didn't know what to do. There were a lot of calls talking  
19 about that they were going to beat up Tommy. They were going  
20 to do something to Tommy.

21           You don't talk about this defendant. You don't talk  
22 to law enforcement. You don't tell them what's going on. And  
23 he has a long history of people staying quiet. He was  
24 originally convicted of a murder that occurred in June 2002 or  
25 the end of May of 2002. He was arrested in June of 2002. And

1 I realize, your Honor, he was acquitted about a month later.

2 But when you look at those police reports, you see  
3 eye witnesses who originally refused to identify the defendant  
4 but later came in and identified him in an in-person lineup,  
5 and they explained to law enforcement, they were afraid of  
6 this guy and his gang. They were afraid of getting killed.  
7 He was originally interviewed by law enforcement and lied  
8 about where he was and what he was doing. And when the police  
9 officers went and interviewed the person that he was  
10 supposedly with during that time, she said, oh, no, he wasn't  
11 with me, but I saw him after I heard shots and saw Christopher  
12 Hunter in the field having been shot.

13 She didn't corroborate his story. And then later as  
14 she realized what she was doing, she was talking against this  
15 guy, she backtracked. She wouldn't cooperate. She refused to  
16 talk. This guy went and retaliated against the shooters of  
17 Christopher Hunter. He took action. There was a reaction,  
18 and that has been consistently shown in this guy's  
19 organization.

20 This was about him being in control of the people who  
21 worked for him in his territory. He's not someone who is  
22 going to let things go without a response. There was a call  
23 where he was told by one of his friends who used the nickname  
24 Q that Mahogany Barbee had disrespected him a day earlier. So  
25 he told Mahogany Barbee that he was going to smack her. When

1 Reggie Lord was beaten up by those Four Corner Hustlers, he  
2 decided the response: Beat them up, but don't use guns.

3 You heard what this defendant did to Gill's hand when  
4 Ladonta Gill had messed up the count, when he messed up his  
5 money. He broke his hand with a bat. That was this  
6 defendant, violence for control. He used Maurice Davis,  
7 Ladonta Gill, Curtis Ellis, Charles Cowert, James Phelan, to  
8 make sure he stayed in control. Their nicknames were Capone,  
9 Bam, Maniac, Pee Wee. He didn't use guys like Lil' One, like  
10 Bunny.

11 You heard from Lil' One and Bunny yesterday. They're  
12 scared to death of this defendant. They may not have told you  
13 that from the stand, but you saw them when they testified.  
14 They know what's going on. They know who they're talking  
15 against. They're scared to death. And everything in this  
16 organization tells you that that is a very real feeling  
17 because he has a long history of reacting against those who  
18 don't follow him, who don't go his way.

19 This wasn't Maurice Davis just going out and shooting  
20 people. These were murders and shootings in furtherance of  
21 his control of his organization, retaliation for violence, for  
22 shootings. He needed to keep track of who he was at war with,  
23 and he was at war, and he had to make sure that his soldiers  
24 were out there because he was in command of his own army, of  
25 his own territory on the West Side. And all of that violence

1 only made him stronger in the neighborhood. He wasn't  
2 constantly needing to keep people away from his territory.  
3 His guys were out there unchecked, passing out his heroin, for  
4 a decade.

5 All of that money was coming back to him, back into  
6 his pockets so he could go out for those fancy dinners, so he  
7 could fly out to Las Vegas, so he could have three cars and  
8 live in the suburbs, so he could throw parties for his guys  
9 like Pee Wee. That party bus was for Pee Wee. He was hosting  
10 that party on that boat for his own birthday, thousands and  
11 thousands of dollars, thousands and thousands of dollars that  
12 came into his pocket because addicts came to the West Side,  
13 paid their money and got his heroin.

14 When you look at all of this evidence, you know that  
15 he controlled all of that. He directed that violence, but,  
16 more importantly, he had the power to stop it. His guys  
17 followed his directions, and he didn't stop it. All of that  
18 violence was because of him, and he is accountable for it,  
19 just as much as if he had pulled that trigger for each of  
20 those shootings, for each of those murders. That is all on  
21 him. And when you start considering this violence, the  
22 shootings, the murders, the drugs, these are the most serious  
23 offenses. They're the most serious crimes, and he is  
24 responsible for all of them for years and years.

25 When you look at all of that, it shows you why a

1 sentence of more than 40 years is appropriate. It's  
2 sufficient but not greater than necessary for this defendant.  
3 When you look at the guidelines, and the guidelines right now  
4 calculate him as being 360 years to life imprisonment, that  
5 calculation only considers the drugs that his organization  
6 sold for 2009 into 2010. But as you know, this guy was out  
7 selling drugs since he was a teenager. At some point this guy  
8 became more than just a street seller. He took control of all  
9 of it.

10 That shows you who this guy really is. It shows you  
11 why people were afraid of him. He wasn't your average street  
12 dealer. There was a call that between the defendant and one  
13 of his friends following the murder of Little Dock, who the  
14 line chiefs call Little Dock. There are the defendants  
15 talking with his friend. They're talking about what's going  
16 on and how the police, them people, are out going through the  
17 neighborhood asking people if they know about Bird. And his  
18 friend told you exactly what everyone in the neighborhood  
19 knew, what the people on the West Side of Chicago knew. Hear  
20 that name, get the F out of Dodge. That's this defendant.

21 This kid, who defense counsel describes very  
22 eloquently as having a horrific childhood, grew into the man  
23 who made the decisions to give that green light to get the  
24 heroin, to get his guys out on the street to get his money.  
25 That's the man who is standing before you for sentencing, not

1 that kid. He did other people's dirty work for a while, but  
2 then he got his own guys to do his own dirty work.

3 Those calls and even the letters that were sent in  
4 support of him tell you what all of the evidence shows, that  
5 he was the guy who could tell people what to do, who could  
6 tell his guys to respect the lady next door or down the  
7 street. He was the guy who had the money to support his other  
8 family members. He was the guy who decided to stay where he  
9 was because he was the guy with the power, and it was a lot  
10 easier to have all that money rolling in than to get a real  
11 job.

12 His history and his characteristics demonstrate to  
13 you why he is such a danger, why he is someone who needs to be  
14 locked up until he is too old to be that leader. He is  
15 someone who has never been deterred from engaging in criminal  
16 conduct. He was sitting in Cook County Jail on another  
17 probation violation, and he is still on the phone commanding  
18 his organization.

19 Getting locked up earlier wouldn't have made a  
20 difference. He would have been out for a while. He wouldn't  
21 have been in commission. But he's a leader. That's what  
22 makes him that much more dangerous than your average street  
23 dealer. There is something about him that gets people to  
24 follow him, and he makes people follow him into crime, into  
25 drug dealing, into violence, and he has to be held accountable

1 for all of that.

2           There is also the need for you to consider, the need  
3 to deter him as well as others from engaging in crime. His  
4 entire area was supported by his organization, by his heroin  
5 trafficking by the guys who were out working selling those  
6 bags of heroin, getting that little bit of money so they could  
7 take care of themselves, take care of their family members.  
8 His criminal organization was entrenched in that area. Even  
9 people who maybe didn't like having drug dealers out there  
10 called up to make sure that everyone knew to watch out on the  
11 block for what was going on for law enforcement.

12           They may have liked the defendant, but they didn't  
13 like the shootings. But it all went hand in hand, and that's  
14 because he was the one who was in charge, in control. That  
15 green light that Maurice Davis talked about was indicative of  
16 who this guy is, the guy who called the shots, who was the  
17 CEO. He has to be held accountable for all of that, Judge.  
18 He hasn't been held accountable at any point in his life, and  
19 it has been a long life in street years. Now is the time to  
20 send that message to him, to everyone back there, to everyone  
21 out in the community, that this guy and guys like him are  
22 going down, that you want to stay as far away as you can from  
23 someone like him and for people who work for him, that the  
24 only result of being with him, standing with him, is going to  
25 jail for a long, long time or getting killed.

1           Those seem to be the two choices that a guy like him  
2 makes for the people who are with him or who work for him. He  
3 has to be held accountable for all of that. And a sentence of  
4 more than 40 years will do exactly that. It's sufficient. It  
5 is not greater than necessary. Make sure that he is out of  
6 commission, Judge. Protect the people in Chicago, protect the  
7 people in his neighborhood, in his community, and make sure  
8 that he doesn't get released from jail until he is an old, old  
9 man. So we ask that you impose a sentence of more than  
10 40 years.

11           THE COURT: Thank you.

12           Mr. Brindley.

13           MR. BRINDLEY: Your Honor, there's a phrase that when  
14 you're a hammer, everything you see tends to look like a nail.  
15 And in the aggregate, all kinds of terrible things happened in  
16 this neighborhood around this time, and the way the government  
17 describes it, every one of them can be chalked up to Mr.  
18 Bostic. All this violence, it was him, everything.

19           They go so far to say, well, the lady, the old lady  
20 who lives in the neighborhood says that he makes -- you know,  
21 he's helpful to her and people won't bother her. And they  
22 say, well, that proves that he's some terrible, violent  
23 person, or that his girlfriend still supports him. Well, that  
24 means he's a terrible, violent person, rather than the  
25 possibility that he has good qualities, too.

1           And so it's important to, I think from the beginning,  
2 separate the aggregate of everything that happened from what  
3 the government actually proves he is responsible for reliably  
4 because that's what it's about. What did they prove he's  
5 reliably responsible for? It's not about anything else. And  
6 one example we can give of the difference between the way that  
7 they characterize what he is and what he did versus reality  
8 comes from just one of these calls that I'm just going to  
9 mention as an example. And it's the call about the movie  
10 theater where the guy is wearing the 450 T-shirts. It was  
11 page 45 of 47 in that attachment to the response. 7/29 is the  
12 filing.

13           THE COURT: Yes.

14           MR. BRINDLEY: And what happens is the government's  
15 right. Brandon Richards calls Dana Bostic, and he says,  
16 there's these guys wearing 450 shirts at this movie theater  
17 downtown. And then in about the middle of the page, we see  
18 Dana Bostic's response. Richards tells him -- I said there's  
19 like four people in there with big 450 shirts on. He asks:  
20 "You cool, nigger," meaning, I guess, are you okay.

21           And then he goes on to tell him that he told him that  
22 he should go to the theater in Bolingbrook. And he explains  
23 that the Bolingbrook theater is a lot nicer than the theater  
24 Brandon Richards is in and suggests they just take him there.

25           What doesn't happen is what we would expect to happen

1 if he is what they say he is. The 450 shirts didn't result in  
2 Dana Bostic saying, go out there and do something about it.  
3 It didn't result in Dana Bostic saying, well, get on the phone  
4 and call Capone, and you guys go out there and do something  
5 about it. Richards makes a statement that he's going to call  
6 Capone on his own.

7 Dana Bostic didn't respond with: Let's be violent,  
8 let's go shoot somebody, do it. He said: That's a bad  
9 theater to go to. You should go to a different one. I know a  
10 better one. And that's just an example, Judge. That is just  
11 one little thing. But it's a little thing that fits with the  
12 difference between what reliable evidence we have actually  
13 proves and what they say about Dana Bostic.

14 Now, I think it's important to say from the start  
15 that the sentence we're requesting -- and it is a massive  
16 sentence that we're requesting, Judge. Twenty years is what  
17 we're talking about, and this is a devastating sentence for  
18 anybody, particularly for a person who has never done prison  
19 time before in his life. Any idea that we're asking for some  
20 sort of minor sentence is a false idea. It is not true. The  
21 consequences of the Section 851 notice are Draconian in  
22 nature. That's the way the law is, and they make the minimum  
23 sentence we can ask for a devastating one.

24 So to begin with, I think it's important to say, hey,  
25 we're asking for an amount of time that's going to be

1 crippling for Dana Bostic, what we're asking for will. When  
2 he gets out of jail, he will be forced to live a completely  
3 different life under the sentence that I'm requesting, because  
4 the life he's known is going to be gone, Judge. The studies  
5 and the averages tell you 50-year-olds aren't running drug  
6 spots. It's just true. The sentence we request will  
7 obliterate that life for Dana Bostic.

8           And so then I think the question under Section 3553,  
9 the analytical question, becomes, then what justification can  
10 there be to do more than that, to do more than obliterate the  
11 only life he knows such that it no longer exists for him, the  
12 criminal part and every other part. And the government  
13 cannot, your Honor, justify a sentence greater than 20 years  
14 with claims about specific deterrence or rehabilitation with  
15 respect to this particular defendant.

16           I maintain I think it's important not to get lost in  
17 the aggregate of all these events, but to look at what they  
18 can reliably prove, what the evidence is. And, Judge, when we  
19 look at what the evidence is, we know he's never been  
20 sentenced to a single day in prison before in his life. And  
21 in my filings I suggested it would have been a lot better if  
22 he had, but it didn't happen. And so if he's never been  
23 permitted to suffer a prison sentence less than 20 years and  
24 demonstrates that he can or couldn't be deterred by it, then  
25 there is no way for the government to prove that it takes more

1 than 20 for specific deterrence.

2           They talk about situations where he was in jail, Cook  
3 County Jail, for a short, little periods of time, but the  
4 reality is those were all situations of one of two kinds:  
5 One, where he's literally not guilty of the offense and  
6 expected that he was going to get out in short order by being  
7 exonerated, or; two, where he was in jail on some minor thing  
8 where he knew he was going to get out in a few days. Those  
9 are the only times he's been in jail. And none of that is  
10 even remotely analogous to what a prison sentence is.

11           Your Honor knows this and recognizes this in lots of  
12 other cases. In a prison sentence, you're not waiting for the  
13 day when you're going to be proven not guilty because that day  
14 isn't going to come. You're not waiting for a few days later  
15 when you're going to get out because it's minor. That day is  
16 not going to come. Because the unique mentality that comes  
17 with prison is knowing that when the bar is closed, there is  
18 not going to be any release until the time is up.

19           And in the sentence that we're requesting, we're  
20 talking about him getting about 17 years worth of that  
21 mentality and the rehabilitation and the skilled training that  
22 is available in prison for those long terms. And they have no  
23 proof that 17 years of living with this crime that he's  
24 committed, living with the lack of freedom and living with the  
25 knowledge that there is no way out of it until the time is up

1 for the first time in his life, that that is insufficient to  
2 deter him specifically or rehabilitate him specifically. That  
3 proof doesn't exist. So as a matter of analytical reality,  
4 that justification won't work for Dana Bostic.

5 So then they come to general deterrence, and they do  
6 talk a lot about that. And they seem to be suggesting, as I  
7 hear them, that 20 years isn't enough to create general  
8 deterrence to the deterrable public but somehow 30 years or  
9 actually, from their perspective, more than 40 years is. And  
10 that argument makes I don't think any logical sense. I mean,  
11 it's a good rhetorical device to sort of clamor for a massive,  
12 devastating sentence, but does it make sense?

13 There is no reason to believe that a person from Mr.  
14 Bostic's neighborhood, who is susceptible to deterrence, will  
15 be undeterred by 20 years, 20 years, but that some greater  
16 sentence will do the trick. If a person in his neighborhood  
17 knows you will get 20 years for this offense, when you have no  
18 prior convictions for drug trafficking, no convictions, no  
19 acts of violence that can reliably be proven that you did,  
20 that person is going to be deterred if it's possible. Saying  
21 he won't is unsubstantiated.

22 The government says that the people in the  
23 neighborhood, they saw Mr. Bostic with his nice cars and the  
24 parties that he threw, the barbecues, these kinds of things,  
25 and so they're attempted to want to emulate him. They made a

1 gesture to the people sitting out here. They're tempted to  
2 want to emulate him. But, your Honor, honestly, let's just be  
3 honest. What reasonable person would say that I'm going to  
4 risk 20 years of my life so I can have a nice SUV or so I can  
5 go to Ruth's Chris or so I can have a birthday party on  
6 somebody's rented boat? No one.

7 No one is going to make that calculus if they know  
8 it's 20 years. And if they're susceptible to deterrence, then  
9 20 years for this guy with no prior prison terms, no  
10 convictions for drug trafficking before, that's going to deter  
11 them. And if it doesn't, then they're not susceptible to  
12 deterrence in the first place, and there is nothing we can do  
13 about that. So general deterrence, logically and honestly,  
14 20 years is enough.

15 And that leads to the idea, and what the government  
16 was saying today, about sending a message, send a message to  
17 these folks who are here. Send a message to the people in the  
18 neighborhood. And what that is and what their papers read  
19 like is let's make an example out of this defendant. Let's  
20 give him a crushing sentence that scares the neighborhood away  
21 from this offense. Essentially there is a sense in which what  
22 it is is saying make it a disproportionate response capable of  
23 scaring these people straight.

24 But, your Honor, you know that Section 3553 doesn't  
25 allow for using sentencing to make an example out of somebody.

1 That is antithetical to what it says. It says we sentence the  
2 person and the crime before the Court, nothing more and  
3 nothing less. It does not say we impose some pulverizing or  
4 terrorizing sentence to prove a point, or to send a message of  
5 fear to people in some neighborhood or people sitting in this  
6 gallery.

7           When you start making sentencing an exercise in  
8 sending such a message of fear to other people, then I think  
9 we lose sight of the individualized consideration of the  
10 defendant that Section 3553 demands. You know, obviously, in  
11 the past all kinds of garish torture and disfigurement and  
12 things were done in public squares to send messages, and  
13 history proved that it didn't work then. And Section 3553  
14 indicates that it shouldn't work now. Using brutal punishment  
15 as a mechanism for imposing fear in these people here only  
16 compels these people here and the public that sees it to  
17 distrust powers responsible for such disproportionate  
18 penalties.

19           It is certainly fair to say, your Honor, that a  
20 sentence of 20 years is indeed a brutal sentence. It is. To  
21 justify it, there must be a brutal offense, an offense in  
22 which he's proven, the defendant, proven to be so dangerous  
23 that we need more than 20 years to keep him away from the  
24 public. But the actual reliable evidence does not say that  
25 Mr. Bostic is responsible for such conduct. The reliable

1 evidence doesn't say that. The reliable proof says he worked  
2 with others to facilitate the sale of between 10 and  
3 30 kilograms of heroin. He did that. He made significant  
4 money from it. He did that. He had the connections to a  
5 heroin supply, and that gave him the authority to make it  
6 work.

7 That's what Aaron Bagley told us, the government's  
8 witness. That's what he told us gave him the authority he had  
9 over the drug operation. And, obviously, Mr. Bostic knew that  
10 people around him carried guns, had guns. He knew there was  
11 violence going on. There is no question about that. This is  
12 a dangerous business. And what Aaron Bagley told us about  
13 that was that Dana Bostic knew they had guns, sometimes asked  
14 if they had guns, so they could defend themselves if attacked.  
15 That's what their witness told us. There is no doubt that  
16 selling heroin preys on the weakness of addicts. The  
17 government talks about that, and it's true. But every drug  
18 dealer does that, and that does not mean by itself that he  
19 deserves more than 20 years.

20 Selling heroin ruins lives and it ruins  
21 neighborhoods, and everybody in here knows that. Mr. Bostic  
22 is in many ways a victim of the very kind of offense that he  
23 ultimately committed. Nonetheless, 20 years is a sufficient  
24 sentence for the drug dealing part of this case. Mr.  
25 Richards' sentence already imposed proves that. He was

1 involved in the same drugs, same sales, same quantity, had  
2 authority to make it happen, did make it happen, exercised  
3 that authority. In the conspiracy involving guns in which the  
4 violence occurred where he was talking to the people just like  
5 we heard on the phones, he dealt with these people doing the  
6 violence directly all the time, and the calls prove that  
7 they're calling and talking to him.

8 So the fact that he could get 184 months suggests  
9 that the conduct here isn't sufficient, the drug dealing part  
10 of this or the fact that there were guns, any of that, isn't  
11 sufficient to say that Dana Bostic has to get more than 20.  
12 The only way to justify more than 20 in light of what's  
13 already happened with Mr. Richards is to say that Mr. Bostic  
14 was responsible for the shootings, to say that he was  
15 responsible for the violence. And so I think it's important  
16 then to take an analytical look at what the evidence really is  
17 and ask whether the government proved it.

18 Now, what the government describes when they talk  
19 about Dana Bostic is a ruthless gang leader. That's what we  
20 have heard in their papers and that's what they described  
21 today. That's who they talk about, and that is the Dana  
22 Bostic that I guess was supposedly rumored to exist somewhere  
23 on the street. But Section 3553 does not permit a man to be  
24 sentenced based on some rumor or innuendo that might exist  
25 someplace. He must be sentenced on the reliable facts proven

1 with reliable evidence in court, obviously.

2           So analytically speaking, if the government wants to  
3 call him a gang leader, they need to provide some reliable  
4 proof that he was one. And they didn't have that. None of  
5 their witnesses could establish that he ever held any  
6 leadership position in any gang, the New Breed street gang.  
7 Their own witness, Aaron Bagley, said he didn't -- never heard  
8 that, never heard anything like that. That's their witness.  
9 And what he said was the only authority Bostic had was coming  
10 from the ability to control the heroin because he's the guy  
11 with the supply. That's what their witness said.

12           And the government talks, well, he was giving  
13 direction, he was giving direction. Look at all the calls.  
14 You don't have them all, but you have a sampling of them. The  
15 direction he's giving most all of the time, his direction to  
16 Brandon Richards about the heroin, picking up money from here,  
17 going to meet the supplier there, it's about the heroin. He  
18 is not giving direction to do violence. He's just not. And  
19 when you want to prove that a defendant has some kind of  
20 massive authority maintained by violence, you can't put on a  
21 witness who says that's not how it was and then turn around  
22 and say to the Court, we reliably proved that's how it was.  
23 Their witness makes it impossible.

24           Aaron Bagley never heard about any incident, not  
25 directly, never heard about an incident where Dana Bostic

1 directed somebody to do violence to somebody else. That's  
2 what he said, their witnesses. And so their witnesses'  
3 comments undermine the very claim that they would bring to you  
4 now. He did sell heroin. He did have authority over that  
5 sale because of the supply line, and he maintained that  
6 authority by maintaining that supply.

7 But when we come to this violence, these shootings,  
8 is there reliable proof he ever directed anyone be shot?  
9 That's a question to be asked. And they called witnesses to  
10 try to prove it, but the effort failed, and the effort failed  
11 because Aaron Bagley said no, he didn't hear of that. That's  
12 not what Bostic was like. That's not what he heard about  
13 Bostic on the street. And this is a guy who was working on  
14 those streets every day talking to these guys every day, and  
15 he says no.

16 He said that Bostic -- they looked up to Bostic  
17 because of his position in the neighborhood, because he had  
18 the connection to the supply and they wanted to be able to  
19 sell heroin, and that he, Bagley, said they looked up to him.  
20 And what Bostic, as he understood it, told him was, don't get  
21 into violence unless you get attacked. Their witness said  
22 that. That's not something that we had any control over.  
23 Their witness said that when trying to prove that he's  
24 responsible for these things.

25 And that's just not the violent menace that they're

1 saying he is. Aaron Bagley's description is also supported by  
2 what we find within these government calls. You know, when a  
3 call where they wanted to prove that he went to eat at Ruth's  
4 Chris, at the end of the call, you heard him -- you hear or  
5 you read in the transcript, he talks about giving money to  
6 Rock, to Chris Hunter, to go and buy toys for his kids at Toys  
7 R Us, and he's upset because he's afraid Rock is not going to  
8 spend the money that way. That's in their calls. That's just  
9 not the guy they're talking about, but that's what's in the  
10 calls.

11 I just mentioned the theater call with Brandon  
12 Richards and his response to that. There's never him calling  
13 on Brandon Richards to be violent even when confronted with  
14 those facts. These things are consistent with Mr. Bagley's  
15 description, not with the government's description. The only  
16 call where there is some hint about Mr. Bostic saying anything  
17 about violence, Maurice Davis calls Brandon Richards. Brandon  
18 Richards says something about Big Guy saying, you should beat  
19 their asses. But then I don't even see any evidence that he  
20 was actually talking about Dana Bostic.

21 Later when he's talking about Dana Bostic and he  
22 says, Mellow says you don't need to get a gun from me, then  
23 he's talking about Dana Bostic. But what that amounts to is  
24 Mr. Bostic saying, we don't want guns. I don't want -- if  
25 there's a gun that Mr. Richards has that I have something to

1 do with, I don't want you using it. I don't want shootings.  
2 There is no evidence there that he's directing shootings to  
3 happen.

4 And with the other witnesses, because Aaron Bagley  
5 said no to all of this, the other witnesses obviously had  
6 credibility problems your Honor already recognized. And what  
7 you said at Ladonta Gill's sentencing was: In order to rely  
8 on their claims about these shootings, you have to have what  
9 the Court called enhanced corroboration, like the police  
10 reports showing Ladonta Gill running away from the scene where  
11 the guy got shot.

12 But there is no enhanced corroboration here. In  
13 fact, Aaron Bagley contradicted all of Maurice Davis'  
14 descriptions of Mr. Bostic. More specifically, Davis tried to  
15 claim that there was this rule that you couldn't shoot anybody  
16 without Mr. Bostic's permission. And then Mr. Bagley said  
17 there was no such rule. He never heard of that rule on the  
18 street. He said that Mr. Davis was violent on his own, and he  
19 said that Mr. Davis never looked for anybody's permission to  
20 shoot someone, and he knew Mr. Davis directly. He said he was  
21 close to Mr. Davis. He knew him well.

22 So Mr. Davis is the only one who says that, yes, Mr.  
23 Bostic gave the green -- Mr. Bostic is why all these shootings  
24 happened. It was him. He says it. But even in saying it,  
25 the whole thing falls part because he specifically says, and

1 you know who -- Aaron Bagley was there. And I asked him: Do  
2 you specifically remember him? Oh, yes. He was there.

3 Aaron Bagley says he wasn't there. A minute ago in  
4 their argument, your Honor, the government said he wasn't  
5 there. But the only witness they have to say that he's  
6 responsible for these shootings said the opposite, and that  
7 doesn't work if you want to say, oh, we're reliably proving  
8 that there is some sort of responsibility from this defendant  
9 for these other crimes. And if that means we need to enhance  
10 his sentence based on it, you can't do it with that kind of  
11 evidence.

12 Cornelius Thomas, the government didn't say much  
13 about him today because he doesn't know anything. He never  
14 met Mr. Bostic, never heard Mr. Bostic, never heard him say  
15 anything about a green light. He said he heard Mr. Bagley say  
16 something about a green light. He might have heard Reggie  
17 Lord say something, but he doesn't know where it came from,  
18 and he didn't even really know what it meant. And if you  
19 watched him as he testified, what he appeared to be was  
20 uncertain about everything. He just didn't know, and you  
21 can't reliably prove anything with that. He didn't help. I  
22 think ultimately he added nothing.

23 And so what you had then is Mr. Davis. And I don't  
24 want to go on too long about him because your Honor has  
25 already commented on him before, and I don't think he became

1 any more credible yesterday. Your Honor said that he would  
2 lie and lie until the truth slapped him in the face and then  
3 possibly keep lying. And it was plain yesterday that he  
4 continues to lie and doesn't have a problem with it. He says  
5 he doesn't have a problem lying about another person to help  
6 himself. He admitted that. He had no problem shooting  
7 somebody trying to kill him. He admitted that.

8 At one point under oath last time, at Mr. Gill's  
9 sentencing, he said everything he said before the 25th of  
10 August was a lie. Then yesterday he said that some of it was  
11 true. He said yesterday, first, he was afraid that they were  
12 going to think that he was the one that made the D-Low  
13 shooting happen and he was responsible for it. First, he said  
14 he was afraid of that. Then when pressed later on about the  
15 ramifications of that answer, he said, well, no, I wasn't  
16 afraid of that. All this is under oath.

17 He said that saying Mr. Bostic ordered the shootings  
18 was how he could get himself out of this. He admitted that.  
19 And he tried to come up with an excuse about needing a proffer  
20 agreement from the state at one point to explain why he  
21 apparently didn't say certain things, but that did not explain  
22 why he lied about everything more times than he can count, and  
23 he was left with that despite the excuse.

24 You know, he lied about the incident with the guy in  
25 prison where the guy said he was raped. Then when he feared

1 he got caught, he changed his story, blamed it on the victim.  
2 He claimed that he didn't molest the little girls and that  
3 they were lying about that. And then when the investigators  
4 came, he admitted he ran away, and then later he said, oh, I  
5 didn't run away, all in the same, you know, ten-minute span.  
6 It was one lie for another from this guy, and there's no way  
7 we can say we can reliably believe what he said about anything  
8 unless there's some sort of significant corroboration which  
9 was ruined when Aaron Bagley said it was all what his --  
10 Davis' comments were inaccurate and essentially said the  
11 opposite and put the green light statement only in Maurice  
12 Davis' mouth.

13 I think it's important to note that Mr. Bagley said  
14 he never even heard about anybody other than Davis saying it  
15 out on the street, and he was there every day. Davis is a  
16 despicable liar. He's being, in my view, for whatever it's  
17 worth, gifted with a 15-to-20-year sentence from the  
18 government's plea agreement. And instead of corroboration,  
19 the testimony was refuted by Aaron Bagley, who I think at the  
20 very least is far more credible than Maurice Davis.

21 All that they presented to prove that Mr. Bostic was  
22 responsible for ordering violence of any kind, shootings of  
23 any kind, was Davis, and we can't rely on that. It doesn't  
24 meet the standard of reliable evidence that the Seventh  
25 Circuit requires for sentencing.

1           The other thing that I think is important to note,  
2 and the government talks about all this, they want to say that  
3 Mr. Bostic -- Maurice Davis was his guy and that he was  
4 telling him what to do, that they were somehow close. And  
5 Maurice Davis tried to maintain that although previously he  
6 said he didn't even know why he was selling drugs for Mr.  
7 Bostic except for word of mouth on the street.

8           But ultimately the proof of the pudding is in the  
9 eating, your Honor, and there's no calls. You look at call  
10 after call after call, this whole wide swath, almost no calls  
11 ever between Maurice Davis and Dana Bostic. So the idea of a  
12 close relationship where he's calling on him to come see him  
13 to do something, it's just not happening, and that undermines  
14 their claim, too. If you want to say that the man's  
15 responsible for all this violence and maintains violence and  
16 mayhem to keep his authority and you want to sentence him for  
17 it, you have got to prove it, Judge. That's the law. The guy  
18 they put on to prove it is a liar.

19           It's also certainly the case that Mr. Bostic can't be  
20 sentenced to more than 20 years for a murder charge that  
21 happened ten years ago and he got acquitted for. And the  
22 government thinks they need to rely on that to try to give him  
23 this devastating sentence. Can they produce a witness to say  
24 that the finding of the Court back then was somehow wrong,  
25 that the verdict was wrong? No. They can't do that. They

1 didn't do that.

2           And they want to make all kinds of assumptions  
3 without evidence, and that's not going to work. That's the  
4 problem. Most of what we hear from them about the violence  
5 and all this with Mr. Bostic is based sort of on assumption  
6 and innuendo and Maurice Davis, and we take all of that out  
7 and we get down to what's in the calls, it isn't there.

8           They say that he hid behind other people, that he was  
9 keeping himself sort of intricately insulated. That's how it  
10 sounds, but, again, there is not that much proof of that. I  
11 mean, they don't dispute that he met with the supplier  
12 face-to-face. They don't dispute that he met and packaged the  
13 heroin all the time with other people himself with his own  
14 hands. And Aaron Bagley says he drove through the  
15 neighborhood on a daily basis with Richards as Richards was  
16 going around handing the heroin out. He was there. He was  
17 visible. The agents saw him all the time when doing the  
18 surveillance. So there is no intricate message for  
19 Machiavellian insulation here.

20           And when we look at the calls that they have  
21 introduced, the ones that they put to your Honor for  
22 sentencing -- and even though the whole of the wiretap that we  
23 have been able to go over in preparing for this case, when you  
24 consider what those calls show, the picture the government is  
25 attempting to paint of Mr. Bostic, it doesn't reflect the

1 reality in the calls that were recorded when he didn't know  
2 anybody was listening. I mean, there's calls to show, yes,  
3 went to Ruth's Chris, he threw parties. He had money. He had  
4 cars. Yes, it's true. Nobody is disputing that. That's  
5 true. But those same calls don't show Mr. Bostic to be some  
6 sort of ruthless man with enough power to order a killing or  
7 to compel any violence. They don't have a single call where  
8 he does that in all of those months when he didn't know  
9 anybody was listening, not a single call.

10 If Dana Bostic was really the leader of this violent  
11 street gang and ordering killings and beatings, then why are  
12 the calls that they do dredge up, why don't they prove it? I  
13 mean, we have countless hours of recordings. Instead of  
14 recordings showing him giving orders, they bring us calls  
15 where he's talking to Cowert about his case, some case that he  
16 has. Those are the calls that they have. And he's not saying  
17 he's influencing any witnesses. They don't have any proof of  
18 that. It's all just innuendo and assumption and posturing.  
19 They don't have any proof of it, but these are the only calls  
20 they come up with.

21 They mention this snitch thing. Tommy Moore, this  
22 Tommy Moore -- Tommy's tricking call. Yes, there's a call  
23 like that because Tommy Moore ultimately, what he did, if you  
24 look at all the calls, is he told on himself. They relied on  
25 that as tricking, I guess, and Bostic never said do anything

1 to him. At the time when he should be -- if he's their guy  
2 they're talking about giving the directives, come over and  
3 talk to me about Tommy, go and do something about Tommy, you  
4 don't do it, your Honor.

5 And that doesn't work for the government with their  
6 theory about what Mr. Bostic is. They go so far as to rely on  
7 a phone call with his girlfriend where he's mad at her about  
8 something she said about him somewhere, and he says he's going  
9 to smack his girlfriend on the phone. If we have to go down  
10 and start relying on a call like that, we don't have proof of  
11 a violent gang leader with the power to compel others to go  
12 shoot people. If we did, we wouldn't be talking about some  
13 call where he's arguing with his girlfriend.

14 The government went through a litany in their  
15 sentencing papers, and again to some extent today, of  
16 uncorroborated evidence that shows that other people were  
17 involved in violence. They're talking about Maurice Davis or  
18 James Phelan. And they claim that Bostic must be complicit in  
19 their crimes. And the way that they prove that, when we get  
20 to the calls that they have, the actual evidence, is they say  
21 he ordered a party bus for one of these guy's birthday. Now,  
22 is that really proof that this extensive investigation yielded  
23 to show violence that he's responsible? That's ridiculous.  
24 If that's what we're talking about, we're not talking about  
25 somebody responsible for violence.

1           This investigation was named from the beginning, your  
2 Honor. This was Operation Bird Cage. The whole point of it,  
3 the one and only purpose from the beginning was to get Dana  
4 Bostic for selling these drugs. And the agents did their job.  
5 They did it. They got their evidence. They got Dana Bostic  
6 for what they knew him to be doing. And they have shown him  
7 to be a significant heroin dealer. They dismantled his heroin  
8 operation. But for the government now, that's not good  
9 enough. They need you to believe that he's the worst of the  
10 worst, that he's a gang leader like Ray Longstreet or Augustin  
11 Zambrano, but he isn't. They didn't have proof of that. They  
12 want you to think that. They want to say that. But they  
13 never proved it.

14           Their evidence does not match up with the picture  
15 that they like to paint and describe in argument. It is only  
16 relying on rumor, conjecture and things that just aren't there  
17 that they make those bold kind of claims. And from my  
18 perspective, your Honor, I think that is the scariest thing  
19 about the case for me is because I'm put in a position where  
20 the government creates an idea of who Mr. Bostic is. And no  
21 doubt they believe it, but we're in a position of trying to  
22 tear it down despite the fact that there is no reliable proof  
23 that it ever existed. And that's not how it should work.  
24 It's them that's asking you to give the guy more than 40 years  
25 in prison. And when it comes to that, they can't just say

1 take our word for it, assume it, because it was a lot of bad  
2 stuff in the aggregate. They need to produce reliable  
3 evidence that he was responsible, that he directed it. And  
4 they haven't.

5 Now, it also doesn't work in the case, your Honor, to  
6 simply say, and they do this to some degree, too, well, he  
7 brought these violent people into the organization. He knew  
8 they were there, so he's got to be held responsible for all  
9 that they did, okay. That doesn't work for probably more than  
10 one reason, but one significant one is because a lot of these  
11 people are brought in and they're recruited by other people,  
12 people like Brandon Richards. The government doesn't dispute  
13 that Richards was responsible for doing recruitment. They  
14 agree he had significant authority over the conspiracy. He's  
15 the one Davis is calling about getting a gun, according to  
16 Davis, if we're going to rely on anything he says, and we know  
17 that he's the one that Richards was calling Davis. Richards  
18 is connected with these same people.

19 If Bostic were to be held accountable for the  
20 violence of these people who were in the group of which he had  
21 authority, then so was Richards. He's dealing with these  
22 people on a regular basis. The government says, well, these  
23 are shooters. I don't know what -- I mean, maybe, yeah, they  
24 shot people, but the reality is they were heroin dealers.  
25 They sold heroin out on the corners. They answered to Brandon

1 Richards. And so the idea that Mr. Bostic should be held  
2 responsible for everything they did when Mr. Richards  
3 shouldn't, that's not justifiable by the facts that we have  
4 reliably proven.

5 Mr. Bostic's offense was serious because of the  
6 drugs, and in the absence of reliable proof that he compelled  
7 violence or did violence, I think the seriousness of the  
8 offense doesn't demand more than the 20 years for his first  
9 prison sentence of his life, not when we consider what Mr.  
10 Richards got for the same drug dealing. And I think it's  
11 important to note that like Mr. Bostic, Davis accuses Richards  
12 of doing his shooting. He said that yesterday.

13 Like Bostic, the government pointed calls to where  
14 Richards says things that can be construed as violent. There  
15 is no question. Mr. Richards got the sentence you gave him of  
16 184 months nonetheless. And I think giving Mr. Bostic an  
17 extra approximately five years accounts for the difference in  
18 authority based on the actual evidence we have got.

19 Now, Ladonta Gill got 27 years. But he only got that  
20 sentence after your Honor found that there was enhanced  
21 corroboration showing reliable proof that he was involved in  
22 shooting somebody. Now, you try to shoot somebody, you get  
23 more time, obviously. Shooting somebody has got to be worth  
24 at least seven years. And if it's not, then it seems that the  
25 entire sentencing regime is skewed troublingly. Obviously,

1 it's worth seven years when you finally shot somebody. So  
2 giving him 20 and giving Gill 27 is appropriate. That's fair  
3 when we consider the totality of what we have got in terms of  
4 actual reliable evidence.

5 What I think would be unfair, your Honor, is to  
6 overlook the absence of the reliable proof I keep talking  
7 about, that he ordered shootings, in favor of an apparent  
8 specter or rumor about what Mr. Bostic was supposed to be that  
9 the government wants to rely on. If they wanted to sentence  
10 him for that, they needed to prove it, and they didn't.

11 There is respect for the law to be considered, which  
12 is somewhat, I think, related to general deterrence in a way,  
13 and is also making the defendant respect the law, but  
14 generally speaking, giving this man who can't be proven  
15 responsible for a violent act more than 20 years would mean  
16 that he's going to receive a greater sentence than Maurice  
17 Davis, according to the plea agreement the government has. No  
18 one who knows Mr. Bostic and knows he's never been to prison,  
19 he's never lied about this case, he never shot anybody, never  
20 raped or molested anyone, never lied in court, he's going to  
21 get more than the government asks for Mr. Davis? Nobody that  
22 knows that is going to have anything but contempt for the law.  
23 So respect for the law requires that Mr. Bostic get that  
24 20 years.

25 And then there's the mitigation of Mr. Bostic's past

1 that I wrote about in my sentencing papers, and there is no  
2 doubt that he made choices that bring him here, Judge. I  
3 don't want to get away from that. That's true, he bears  
4 responsibility. There was a time when he had enough resources  
5 to say enough is enough and to let it go. That's true. So he  
6 is not a complete victim devoid of blame, as the government  
7 argues that my sentencing papers suggest, but he's also not  
8 the ruthless menace diabolically choosing to exploit addicts  
9 for his own gain in some other unadulterated act of  
10 inexplicable evil which is what they describe. He's neither  
11 one. The truth lies somewhere in the middle, as does, I  
12 believe, a sentence of 20 years.

13           The government presents the question when it comes to  
14 the mitigation and his past, they present the question in  
15 their sentencing papers as if it were between two equal  
16 choices. We can -- on the one hand, you can get real work; on  
17 the other hand, you become a drug dealer. But they weren't  
18 equal choices for Mr. Bostic. He was raised a drug dealer.  
19 He knew drug dealing. Real work was never a thing he knew how  
20 to do. It was never anything that anybody taught him he  
21 should do. That's true. That's the reality. The  
22 government's argument in their sentencing papers makes it  
23 sound as if when we turn 18 or 14, we're all in the same  
24 position, and we sit down and make a choice between two  
25 alternatives: Be a criminal or don't.

1           And that allows people to sit in judgment of this man  
2 who didn't make as good a choice as they did. It allows for  
3 ignoring the fact that the original position, their original  
4 position, our original position, is much better than his. And  
5 I think there is far too humility in that -- too little  
6 humility in that thinking to produce a just sentence.

7           I mean, speaking frankly, when I was 18, it would  
8 have been a lot harder for me to figure out how to sell heroin  
9 than it would be to go to college and do what I've done. And  
10 it didn't have -- I didn't have experience with that. I don't  
11 know how to do that.

12           Mr. Bostic isn't any different. He is simply on the  
13 other side of the coin. You know, I suppose -- I guess I  
14 could have chosen to be a heroin dealer, but it would have  
15 been extremely difficult. That's the point. Whatever else I  
16 may do wrong, I guess I could say, well, at least I wasn't a  
17 heroin dealer, but, your Honor, the fact is that it didn't  
18 take a great effort of will on my part or on any of your part,  
19 any of our parts, the lawyers here. The fact is that given  
20 Mr. Bostic's background, it would have been no easier for him  
21 to find a real career as it would have been for me or you or  
22 any of us to start and go and become a heroin dealer. And  
23 that fact mitigates the culpability we can attach to the  
24 decisions that he made that the government suggests cannot be  
25 mitigated.

1           I mean, this isn't a man who grew up simply in a bad  
2 neighborhood. He had no good role models. He had literally  
3 no adults in his life who weren't drug dealers. So the  
4 government might be right, I think, that maybe I short-changed  
5 his agency in the way that I wrote the sentencing papers  
6 trying to make that point. But I think the government's total  
7 disregard of those experiences and just say, well, that's not  
8 the guy who's before you today, I think that's beyond myopic.  
9 The government has said that he offered excuses in his  
10 sentencing papers. His parents failed him. Caretakers failed  
11 him. DCFS failed him. School did. Law enforcement failed  
12 him. The justice system failed him.

13           But what the government never does argue is that  
14 those things didn't happen, Judge. All of those institutions  
15 did fail Dana Bostic. Society, us, all of us, failed Dana  
16 Bostic. We put him on the path that leads through these doors  
17 through the failure of our institutions, and that is true.  
18 They can't dispute that. It is true. And while it may be  
19 just to say that giving him 20 years for the first time he  
20 goes to prison is appropriate in these circumstances, because  
21 of the gravity of the drug dealing, it would be callous to  
22 suggest that a greater sentence should be imposed.

23           The question that I think should be answered before  
24 passing judgment on Mr. Bostic is this. What sentence would  
25 the Court give if there was a middle class, a suburban

1 defendant, who came in here with loving parents and no  
2 experience in the drug trade, got a college fund in the bank,  
3 but he decided to run a marijuana selling operation, committed  
4 this offense at 18? And he's got all kinds of promise for the  
5 future. He's got all kinds of reason to believe he can be  
6 rehabilitated, all kinds of support and no excuses.

7           And I submit, your Honor, that in light of Mr.  
8 Bostic's background, you should take that number for the  
9 sentence you would give that person and cut it in half, and  
10 that's the sentence that you should give to Dana Bostic.  
11 That's about as close to justice as we are going to get. Mr.  
12 Bostic's life should not have gone this way. There's a point  
13 where he shouldn't have made the decisions he did. There was  
14 also a point where he shouldn't have been put in the position  
15 where that happened. He has to be punished for the gravity of  
16 this offense, but we should not sacrifice entirely him on the  
17 altar of failures that go far beyond his own. I think we have  
18 to recognize that, and with no reliable proof that he is  
19 responsible for the violence, proof in court. Twenty years is  
20 enough, Judge.

21           THE COURT: Ms. Church, anything else you want to  
22 tell me?

23           MS. CHURCH: Very briefly, your Honor.

24           I'm black gangster man. I'm an F'g New Breed. I  
25 ride up under the mother F'g six. Those were his words,

1 Judge, to Brandon Richards while he was sitting in Cook County  
2 Jail. When he wasn't being interviewed by probation, he knew  
3 exactly who he was. He is and was a gang member.

4 Maurice Davis was a member of the New Breeds. Aaron  
5 Bagley is a member of the New Breeds. Cornelius Thomas is a  
6 member of the New Breeds. They all worked for him, for his  
7 organization. He was in control. He was the leader of that  
8 street gang in that area. That's what all the evidence has  
9 proven.

10 Mr. Brindley has talked about how a sentence of  
11 20 years will obliterate his life, the life as he knew it.  
12 Think of all of those lives that he obliterated. That's what  
13 a sentence of more than 40 years takes into account, not only  
14 for all those shootings and murders and acts of violence that  
15 he directed and that occurred on his watch, but for all of  
16 those addicts who took those drugs, for all the people who  
17 worked for him and went into jail, for all of their families  
18 who are missing their husbands, their brothers, their sons,  
19 those are the lives that he ruined, that he obliterated. A  
20 sentence of 20 years doesn't adequately take that into  
21 account.

22 A sentence of more than 40 years looks at that whole  
23 picture beyond just this defendant, beyond just who he is. He  
24 knows who he is. He is a leader. He is a violent, violent  
25 man.

1           Mr. Brindley talked about the people who were working  
2 for Richards. Mr. Richards didn't come into the picture until  
3 after murders had occurred, until after shootings had  
4 occurred. His guys, the defendant's guys, were the shooters.  
5 Cowert, Phelan, Davis, his own brother, Ladonta Gill, those  
6 were his guys. They were there before Richards. Those were  
7 the guys who went out and did what he directed them to do. We  
8 don't for a moment discount what his childhood was. There is  
9 no doubt that it absolutely affected decisions he made and  
10 choices he had in his life. But then he continued to make the  
11 choices as an adult, and those choices rose him through the  
12 ranks to be at the top. That's what he must be held  
13 accountable for.

14           We didn't dispute any of those facts about his  
15 childhood, and they have not disputed a single fact about any  
16 of those shootings or murders. They happened and they  
17 happened for a reason that was readily explainable. And as  
18 Mr. Davis testified to under oath: They're at war or as  
19 retaliation.

20           Curtis Ellis died in the defendant's arms. The  
21 defendant was shot five times. He didn't just sit back and  
22 say, hey, guys, go ahead and do whatever you think is  
23 necessary. He directed what was going on. He gave that green  
24 light because he wanted vengeance. He wanted retaliation. He  
25 wanted justice for his brother, street justice. Now is the

1 time when everyone else gets justice for this defendant. That  
2 is why a sentence of more than 40 years is so important.

3 Aaron Bagley told Cornelius Thomas that there was a  
4 green light and heads were going to roll. Back then Aaron  
5 Bagley knew what was going on. He knew why they were at war.  
6 He knew why there were acts of retaliation, and it was because  
7 of him, because of that shooting.

8 Ladonta Gill didn't just go out there and start  
9 shooting people. He went out there with other guys, with his  
10 guys, to get revenge for Curtis Ellis, for their friend and  
11 his brother.

12 We included the call between the defendant and  
13 Mahogany Barbee where he's saying that she disrespected him  
14 and that he was going to be physically abusive towards her.  
15 She testified in the grand jury that he was. It's relevant  
16 because it shows who this guy is at his core. He is someone  
17 who cannot be disrespected because he must be in charge. He  
18 must be shown the respect that he thinks he deserves.

19 Maurice Davis' violence against women was something  
20 that Mr. Brindley cross-examined him about. It was relevant  
21 because it showed, yes, he's a bad guy, the bad guy that those  
22 guys knew him to be, the same sort of thing that is true about  
23 the defendant. His violence towards women is the same as his  
24 violence towards everyone else. He wasn't a peaceful guy,  
25 Judge. He was a guy who would do what was necessary to stay

1 in control.

2 Mr. Brindley also talked about how, you know, when  
3 he's a 50-year-old guy or so, he's not going to be coming out  
4 and running street corners. Well, Judge, he wasn't standing  
5 on the street corner watching what was going on. He was  
6 outside of view. Yes, we saw him -- police officers saw him  
7 on surveillance going to and from 4019 West Van Buren and  
8 meeting with suppliers. He wasn't out there monitoring the  
9 block the same way. He was a guy who took the step back to  
10 make sure that he was out of the view of law enforcement.

11 All that you have heard in this case happened because  
12 of him. He has to be held accountable. He can't come back  
13 out when he's 50 years old and get shown the respect that  
14 other people do like Braman, those girls were talking about.  
15 He was getting out of prison and he was going to come back out  
16 and take over his territory. That was disrespectful. That  
17 resulted in a shooting. It resulted in the death of Lee  
18 Floyd.

19 He can't come out and have those guys still looking  
20 up to him, still taking care of him. We have to make sure  
21 that he is held accountable and that the community is  
22 protected, and a sentence of more than 40 years will do that.  
23 So that's what we ask you to impose.

24 THE COURT: Anything else you want to tell me, Mr.  
25 Brindley?

1 MR. BRINDLEY: Yes, just very quickly, your Honor.

2 With respect to the Curtis Ellis -- the shooting of  
3 Curtis Ellis, the murder of Curtis Ellis and the timing, does  
4 the timing suggest that these shootings may have been in  
5 retaliation? I think the timing suggests that that might be  
6 right. The problem is that doesn't prove that he directed it.  
7 And I think it's important to remember, as Aaron Bagley said  
8 and that as Maurice Davis admitted, Davis wanted revenge.  
9 Gill wanted revenge. This was a person they were close to.  
10 And so the idea that you had to have Mr. Bostic ordering them  
11 to do it or the fact that it happened means that he did, that  
12 gets away from what they would actually have to prove, which  
13 is that he directed these things.

14 With respect to the claim they made about his  
15 relationship with Ms. Barbee and her grand jury testimony,  
16 what she said was that they had gotten in physical fights  
17 sometimes. None of that, I think, justifies giving him more  
18 than 20 years. I just think in light of everything we know,  
19 we consider all of it, there is not reliable evidence about  
20 him directing these kinds of violence. There's no calls like  
21 that. And as a result, I think giving him more than 20 years  
22 would be disproportionate in comparison to what Gill got, in  
23 comparison to what Richards got, and in comparison to what  
24 Davis is going to get. And I think that it wouldn't be  
25 justified, and, more importantly, I think it's not necessary

1 when you consider the facts.

2 THE COURT: Okay. You made that clear, and everybody  
3 on both sides is getting extremely repetitive --

4 MR. BRINDLEY: Yes, your Honor.

5 THE COURT: -- at this point.

6 Mr. Bostic, is there anything that you would like to  
7 tell me before I impose a sentence on you?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: If so, come up here. It's going to be  
10 easier for me to hear you.

11 (Brief interruption.)

12 THE DEFENDANT: Yes, sir.

13 I would like to apologize to my family, the Court and  
14 for just bringing this case in front of this courtroom. And  
15 all these things they said about me and my little brother, it  
16 just ain't -- that ain't -- that ain't -- that ain't -- that  
17 ain't the life that we lived. Yes, I sold drugs. But all the  
18 murders and all that, I didn't -- I didn't tell these people  
19 to do none of that. If you listen to the calls and all that,  
20 I directed none of that. Only thing I mean to say, to fight,  
21 to fight somebody, and what they said, I ask you to please  
22 give me a just sentence.

23 THE COURT: All right. I'm going to take about a  
24 10-minute break, and then we'll resume at that point.

25 (Brief recess.)

1 THE COURT: All right, everybody can have a seat.

2 Mr. Bostic is present.

3 So the crime that Mr. Bostic pled guilty to and was  
4 convicted of, which was a heroin dealing conspiracy, is an  
5 extraordinarily serious crime even if you don't pay a bit of  
6 attention to anything of the other activity that is attributed  
7 to Mr. Bostic. I will come back to this later, but the  
8 prosecutor is right when she says that a heroin dealing  
9 conspiracy is an extraordinarily damaging thing. Nobody has  
10 mentioned it. It's damaging to the people who were involved  
11 in it because they end up doing time, as a bunch of people  
12 are. It's damaging to the direct victims of it, who are the  
13 addicts, who are people who can't help themselves and can't  
14 protect themselves. It's damaging to the people that they  
15 prey on because they need to go out and commit crimes to get  
16 money to buy the drugs.

17 And it's damaging to neighborhoods like the one where  
18 Mr. Bostic was running this organization. And there is  
19 absolutely not a bit of doubt that he was running a drug  
20 dealing organization and not that he just happened to do this  
21 for a short period of time. He did it for a very long period  
22 of time. You know, the amount of narcotics that is attributed  
23 to him for sentencing purposes, as Ms. Church pointed out,  
24 is -- frankly, it's a fraction of what is actually  
25 attributable to him.

1           So even if I paid a bit of attention to any of the  
2 other testimony, this would be a case that, in my estimation,  
3 would call for a sentence for Mr. Bostic significantly in  
4 excess of 20 years because 20 years just isn't enough to  
5 penalize somebody who was in charge of an organization like  
6 that for that kind of a time. It just isn't. And I will come  
7 back to that later.

8           There have been a lot of comparisons made here, and  
9 it's appropriate for people to draw comparisons and contrasts.  
10 First of all, with regard to Mr. Davis, I mean, I heard the  
11 testimony, too, about what his understanding with the  
12 government was. Suffice it to say, I haven't sentenced  
13 Mr. Davis yet. I haven't read his sentencing materials yet  
14 because his sentencing is a little ways off in the future. I  
15 don't know what sentence I'm going to impose, and it's  
16 difficult for me to compare somebody's sentence that I haven't  
17 imposed yet with Mr. Bostic.

18           I understand -- I know what the government and  
19 Mr. Davis' lawyer agreed to. It's a range of 15 to 20 years.  
20 That's subject to my approval, and I will determine at the  
21 appropriate time whether that is something I will approve of  
22 or not.

23           As far as Mr. Richards is concerned, first of all, he  
24 came to the party way later. As has been pointed out, he got  
25 involved in at least the level he was at after the other

1 individual was shot and killed. I can't say that about Mr.  
2 Bostic. Mr. Bostic was involved at the higher level for a  
3 much longer period, and I know there's a dispute about whether  
4 Mr. Bostic was above Mr. Richards or not. I don't have a bit  
5 of doubt about that. He was. And so I don't think Mr.  
6 Richards is a particularly good comparison.

7           Secondly, as a judge, I take the case that is  
8 presented to me, and I don't believe that at Mr. Richards'  
9 sentencing there was any attempt to attribute to him any of  
10 the, you know, violent activity that has been testified to  
11 here, probably because there wasn't any evidence that, you  
12 know, he was a person who gave the green light, whether it's  
13 reliable evidence or not. So it's difficult to compare Mr.  
14 Richards.

15           Mr. Gill is perhaps a better comparison on some  
16 levels and perhaps a worse comparison on other levels. In  
17 terms of the drug dealing activity, he's involved at a way  
18 lower level, way lower level, than Mr. Bostic is. I concluded  
19 that there was sufficiently reliable evidence that he was  
20 involved in the shooting where the people are coming through  
21 the vacant lot where Mr. Davis said he was waiting for him in  
22 the car and then drove off when the police came up. I thought  
23 there was reliable evidence that he was involved in that.

24           And, you know, that is true, that was a significant  
25 factor in his sentencing. I mean, if it hadn't been for that,

1 I would have -- I think the sentence I gave to Mr. Gill was  
2 329 months, if I'm remembering it correctly. It's about  
3 27 years, or 27 and a half years. Maybe it was 323, I don't  
4 know, somewhere in there. I wouldn't have given him that big  
5 of a sentence if it hadn't been for the credible evidence of  
6 his involvement in one shooting. There were other shootings  
7 that -- or at least one other shooting, I guess two other  
8 shootings, that were attributed to him. I didn't think there  
9 was enough evidence of that.

10 But lest anybody think that I made a general  
11 conclusion that nothing Mr. Davis said was true, I want to  
12 find the part of the transcript here. So bear with me. There  
13 it is.

14 (Brief interruption.)

15 THE COURT: You know, the primary shooting that the  
16 government had attempted to attribute to Mr. Gill was the  
17 shooting of this guy. I think his real name is Devon Taylor.  
18 He's been referred to as D-Low, the one that happened at the  
19 gas station where there was actually video footage of a person  
20 in a T-shirt, white T-shirt, shooting at a person, killing  
21 him. Here is what I said about the shooting itself. Hang on  
22 a second.

23 (Brief interruption.)

24 THE COURT: "So with regard to the shooting of D-Low"  
25 -- I'm quoting from page 41 of the transcript of the

1 sentencing of Mr. Gill on July the 9th.

2 "So with regard to the shooting of D-Low -- I'm  
3 groping for his actual name -- Devon Taylor, I think it is --  
4 you know, in terms of the scenario of what happened, that  
5 these people pulled up in a gas station and there were two  
6 cars, you know, one to sort of keep them from getting out, I  
7 suspect, and the other having the shooter in it, and then one  
8 of these people shot this fellow Taylor and killed him, and  
9 the proposition that this was all done in retaliation for some  
10 perceived slight, or his association with people who were  
11 perceived to have been involved in Mr. Bostic's shooting and  
12 the killing of Mr. Ellis, I mean, I don't have any problem  
13 with all of that. I mean, I think there is plenty of indicia  
14 of reliability of that. Some of it comes from testimony of  
15 other people, some of it comes from video and so on."

16 So I found that Mr. -- I found, based on what was  
17 presented to me before, that Mr. Davis -- that the contention  
18 that that shooting was in retaliation for the shooting of Mr.  
19 Bostic and Mr. Ellis was reliable. I said it. I still think  
20 it is. What I had a problem with was the attribution of that  
21 by Mr. Davis to Mr. Gill. And so I guess the corresponding  
22 thing here in this sentencing is Mr. Davis' attribution of  
23 green lights, go orders, whatever you want to call them, to  
24 Mr. Bostic. I really don't have the least bit of doubt that  
25 Mr. Davis was involved in the shootings he said he was

1 involved in. I don't have any doubt about it at all. I think  
2 it's right. He's a cold-blooded shooter, killer, whatever you  
3 want to call him. I also continue to believe that he's not a  
4 particularly truthful individual, generally speaking. As I  
5 said in the sentencing of Mr. Gill, it doesn't mean everything  
6 he says is a lie.

7           You know, it's interesting. I mean, people talk  
8 about Mr. Davis as sort of this wild man. I mean, the fact of  
9 the matter is he is not just sort of out there  
10 indiscriminately shooting at people. He's not. It's very  
11 focused. It's targeted. It happens in response to particular  
12 events. He doesn't get into all of it. I mean, the shooting  
13 at the barbecue I don't think he was actually even involved  
14 in. And, you know, I do think that there is at least some  
15 indicia of reliability for the proposition for the attribution  
16 of this, or at least some of it, to Mr. Bostic. Now, does  
17 that mean Mr. Bostic said, I want you to go kill this person?  
18 I can't say that I know that. I can't say that I know that.

19           What I do know is that this is a person that I think  
20 the evidence reliably shows that Mr. Bostic kept close to him.  
21 He is involved with him before and after these events. The  
22 shootings, I think it has been reliably shown that they  
23 occurred as a result of, you know, at least some of them as a  
24 result of the shooting of Mr. Bostic himself. It's absolutely  
25 true that it's possible that this just could be some person

1 saying, hey, you know, somebody shot one of my people, I'm  
2 going to go shoot one of them. I just don't think that it's  
3 particularly likely that somebody like Mr. Davis, who is  
4 involved in a drug organization like this that somebody else  
5 is in charge of, is just going to go out and do that on his  
6 own without getting some okay. I just don't have -- I don't  
7 think it's a coincidence that all of these people who in one  
8 way or another worked for Mr. Bostic just happened to be  
9 involved in all of this violence that somehow relates to  
10 things that happened to him. And so, you know, I'm not here  
11 sentencing Mr. Bostic on any murders.

12           You know, if the state's attorney's office or some  
13 other prosecuting authority wants to prosecute Mr. Bostic for  
14 murder, they will prosecute him for murder. I'm sentencing  
15 him for a narcotics offense, but I do think it's appropriate  
16 for me to take into account that what I think has been  
17 reliably shown is that Mr. Bostic was involved in an  
18 organization that used violence from time to time to  
19 accomplish whatever goals it thought was appropriate at the  
20 time. And, you know, yes, Mr. Bostic is not out there pulling  
21 any triggers, I agree with that. He's very well-insulated.  
22 He's like most CEOs. There's people that take the weight for  
23 him.

24           I do think, however, that, you know, the thing where  
25 he -- Mr. Gill's statement after his arrest, not, you know, in

1 any deal or quid pro quo with the government that he got his  
2 hand bashed by Mr. Bostic for, you know, for messing up the  
3 count of the money, I think that's sufficiently reliable, too,  
4 and I think that's some corroboration for the proposition that  
5 Mr. Bostic doesn't hesitate to use violence when he thinks  
6 it's beneficial to his business.

7 I don't know whether Mr. Bostic is a, quote, unquote,  
8 "street gang leader," as such. I don't know what his rank is.  
9 I don't know if this gang even has ranks as such. I have no  
10 idea. What I do think has been absolutely demonstrated  
11 without question is that he was the leader of a drug  
12 organization of longstanding that was associated with or that  
13 was part of a street gang. And, you know, violence is part of  
14 running a business like that. It's the business in the life  
15 that Mr. Bostic chose. As somebody said here, it's a  
16 dangerous business.

17 So, you know, I don't think that it's required for me  
18 to make findings on did he commit this murder, did he commit  
19 that murder, because there aren't any guidelines enhancements  
20 about that, but I do think it's appropriate for me to take  
21 into account the nature of the business that Mr. Bostic was in  
22 charge of, the fact that he has, I think, reliably been shown  
23 to have engaged in violent acts himself. And I believe that  
24 it's fair to attribute to him at least some of the violence  
25 that has been attributed to him by other people.

1           Mr. Bostic, you know, as everybody does, has his good  
2 qualities. The letters that were submitted on his behalf are  
3 impressive. He has been -- you know, honestly, he's been good  
4 to his own people. I really don't think that comes anywhere  
5 close to counterbalancing all of the bad things that he has  
6 done to other people, and I'm not -- again, not talking about  
7 the violence; I'm talking about the drug dealing.

8           There is no question that Mr. Bostic had an  
9 extraordinarily disadvantaged upbringing, and there is no  
10 question in my mind that that has an impact on people, and it  
11 has an impact on what opportunities they have, and it has an  
12 impact on how good they are at making choices. But, I mean,  
13 Mr. Brindley's comments, I think, came pretty close to saying  
14 that it's all society's fault, and I just don't buy that. And  
15 if nothing else, in some of these phone calls Mr. Bostic comes  
16 across as very proud of what he was doing, and I don't  
17 think -- I think it defies reality to suggest that Mr. Bostic  
18 didn't make choices. A person who is in charge of an  
19 organization like this for as long as Mr. Bostic did had to  
20 make choices.

21           As far as the comparison of other people are  
22 concerned, you know, you can make all sorts of comparisons, I  
23 agree. You know what, if Mr. Bostic were a suburban, middle-  
24 class person who had had, you know, a good education and a  
25 good upbringing, I would be giving him a way bigger sentence

1 than I'm intending to give him now.

2           On the other hand, just this morning, coincidentally,  
3 when I sentence people -- when you sentence a person to prison  
4 in federal court, they're on -- after they get out, they're on  
5 something called supervised release. And what I do, and what  
6 some judges do, is the person comes out on supervised release.  
7 After they have been out for a while, the probation officer  
8 brings him in, and I have a meeting with him. I sit out here  
9 at the table, you know, and find out what the person's doing,  
10 find out a little bit about what life was like in prison, find  
11 out what they're up to, find out how things are. I always go  
12 back and reread their presentence report from front to back so  
13 that I refresh my memory about their case and I know a little  
14 bit about their background.

15           So as luck would have it this morning, I had a young  
16 fellow in here almost exactly, I think -- let me see -- almost  
17 exactly Mr. Bostic's age, grew up on the West Side, no father  
18 figure in the home, the mother was in bad relationships. Some  
19 of the people she was in relationships with beat him and  
20 abused him, was involved in a street gang, involved in  
21 criminality that resulted from that, got involved in drug  
22 dealing, got involved in drug use, got involved in the  
23 criminal justice system.

24           The crime he committed that brought him here into  
25 federal court wasn't a drug offense. He was involved in

1 basically stealing money from people. It was a check scheme  
2 where people were phonying up checks and stealing money from  
3 businesses.

4 And, honestly, no reason to think that anything could  
5 come of this guy, but here he is. He's back here. He's  
6 working. He has a -- and this was his -- in my view at least,  
7 you know, given the age at which he had had his earlier  
8 brushes with the criminal justice system, this was his  
9 first -- the case in front of me was his first real contact  
10 with the criminal justice system. And he's been out for six,  
11 seven months. He's working full-time in a construction job.  
12 It's a minimum wage job, but he's working. He's taking a  
13 class to, you know, get qualified for a higher level job.  
14 And, you know, he's managed to get away from the people he was  
15 with before and he's doing okay.

16 Now, I can't guarantee he's going to be that way  
17 forever. But if you want to make comparisons, I can make all  
18 sorts of comparisons. The bottom line is I'm sentencing one  
19 person here. I'm not sentencing some hypothetical person from  
20 the suburbs who got a Ph.D. or whatever and then ended up  
21 running a heroin organization for multiple years. I'm  
22 sentencing a particular person, and so I really don't think  
23 those comparisons are valid.

24 I think in some ways, you know, people could say  
25 everything is a racial issue. You can't make everything a

1 racial issue. What Mr. Bostic did was victimizing people who  
2 lived in his community. You know, there are plenty of decent  
3 law abiding people who live in K Town, or whatever it was  
4 called, who are just trying to live their lives, and then we  
5 have got a street gang out here, you know, dealing drugs on  
6 the streets and shooting people up in vacant lots and people  
7 getting shot up at block parties or whatever. And that's  
8 part of -- that's the business that Mr. Bostic chose for  
9 himself, in my view.

10 So in terms of sending messages, it's a blunt  
11 instrument. It's difficult for to me to say that, you know, a  
12 sentence of X sends a significantly different message from a  
13 sentence of Y. And while I'm on the subject of sending  
14 messages, you know, the Congress of the United States has  
15 declared that general deterrence, sending messages, is an  
16 appropriate and a legitimate purpose of sentencing, and I  
17 happen to agree with that. Whether it works or not, you know,  
18 we can all argue about until the sun goes down. It's not  
19 about making examples of people. And, you know, you say  
20 tomato; I say tomato, I guess, but I think sending a message  
21 is an appropriate thing.

22 And what I need to send -- what I think it's  
23 appropriate to and what I need to send a message here to is,  
24 you know, the people out there who work their way up through  
25 these organizations and aspire, and there are people out there

1 who aspire to be Mr. Bostic, and Mr. Brindley may be right,  
2 that nobody sits down and makes a rational choice of, well,  
3 okay, you know, 20 years versus doing some drug dealing. They  
4 don't think about it like that. They don't think they're  
5 going to get caught. They think they're going to get  
6 insulated enough that they won't get caught. They think if  
7 they get caught, they will be able to beat the rap. And  
8 there's all sorts of reasons why people don't pay attention to  
9 the messages that are sent to them, but that doesn't mean you  
10 stop sending messages.

11 The sentence I'm imposing is a sentence of 38 years.  
12 That translates to -- I'm going to do the math again --  
13 456 months. That's on, I believe it's all on -- yes, it's all  
14 on Count 1. That's in the middle of the guideline range, I  
15 guess.

16 The period of supervised release is 10 years. All  
17 the normal conditions of supervised release will apply.

18 I'm not imposing a fine because Mr. Bostic, at least  
19 from anything anybody can see, doesn't have any money to  
20 afford it.

21 A special assessment is mandatory. That is \$100.  
22 Restitution is not an issue.

23 There is a forfeiture count. Is there any objection  
24 to the motion for a preliminary order of forfeiture?

25 MR. BRINDLEY: No.

1 THE COURT: The motion for preliminary order of  
2 forfeiture is granted.

3 There were other counts?

4 MS. CHURCH: The government moves to dismiss the  
5 remaining counts.

6 THE COURT: All the remaining counts are dismissed.

7 Hang on a second here. Let me make sure there aren't  
8 some other conditions that I have to deal with.

9 (Brief interruption.)

10 THE COURT: While on supervised release, Mr. Bostic  
11 will be required to obtain a GED if he hasn't gotten one while  
12 he's incarcerated. If he's unemployed after 60 days, he'll be  
13 required to complete -- excuse me. On release, he'll be  
14 required to complete a job skills training program. If he's  
15 unemployed after 60 days or for any 60-day period, he'll have  
16 to perform 15 hours of community service per week.

17 I think that I have dealt with everything. Is there  
18 anything that anybody can think of that I left out?

19 MS. CHURCH: No, your Honor.

20 MR. BRINDLEY: Your Honor, we request the drug abuse  
21 program for Mr. Bostic.

22 THE COURT: Let me look at this for a second. I've  
23 just got to check one thing here.

24 (Brief interruption.)

25 THE COURT: Yes. There's a reported history of drug

1 use. I will recommend that, at an appropriate point during  
2 his incarceration, Mr. Bostic be designated to an institution  
3 where he can participate in the residential drug abuse  
4 program. That's up to the Bureau of Prisons, and it usually  
5 doesn't happen until much closer to the end of the sentence.

6 Anything else before I advise Mr. Bostic of his  
7 appellate rights?

8 Okay. Mr. Bostic, you have the right to appeal the  
9 sentence. To do that, you would need to file a notice of  
10 appeal with the clerk of the court within 14 days after the  
11 judgment gets entered. If you couldn't afford the filing fee,  
12 the cost of transcripts of any court hearings that you need or  
13 the cost of an attorney and could show that, those would all  
14 be provided to you.

15 If you want to appeal, you should advise Mr.  
16 Brindley, and he knows what to do. He'll get the notice on  
17 file.

18 Okay, we're in recess.

19 (Which were all the proceedings had in the above-entitled  
20 cause on the day and date aforesaid.)  
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C E R T I F I C A T E

I hereby certify that the foregoing is a true and correct transcript of the above-entitled matter.

*/s/ Laura M. Brennan*

September 21, 2012

\_\_\_\_\_  
Laura M. Brennan  
Official Court Reporter  
Northern District of Illinois

\_\_\_\_\_  
Date