

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF VIRGINIA  
Big Stone Gap Division

-----x  
:  
UNITED STATES OF AMERICA, :  
:  
Plaintiff, :  
:  
v. : 2:07CR15  
:  
DANIEL DOVE, :  
:  
Defendant. : Big Stone Gap, Virginia  
: September 9, 2008  
-----x 1:22 p.m.

SENTENCING  
BEFORE THE HONORABLE JAMES P. JONES  
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES:

TYLER G. NEWBY, Esquire  
U.S. Department of Justice  
Criminal Division  
Computer Crime and Intellectual Property  
Division  
1301 New York Avenue, N.W.  
Washington, D.C. 20530  
For the United States of America.

MICHAEL B. GUNLICKS, Esquire  
604 North Boulevard  
Richmond, Virginia 23220  
Counsel for the Defendant.

Proceedings recorded by Stenography, transcript  
produced by computer.

BRIDGET A. DICKERT  
UNITED STATES COURT REPORTER  
180 WEST MAIN STREET, ROOM 104  
ABINGDON, VIRGINIA 24210  
(276) 628-5116

1 (Proceedings commenced at 1:22 p.m.)

2 THE COURT: Good afternoon, ladies and  
3 gentlemen. The clerk will call the case.

4 THE CLERK: This is the case of *United*  
5 *States of America v. Daniel Dove*, Criminal Action  
6 Number 2:07CR15.

7 THE COURT: This is the day scheduled for  
8 the sentencing of the defendant. Is the Government  
9 ready?

10 MR. NEWBY: Yes, Your Honor.

11 THE COURT: Is the defendant ready?

12 MR. GUNLICKS: Yes, sir.

13 THE COURT: Mr. Dove, let me ask you a  
14 question, if you'll stand, sir. Mr. Dove, have you  
15 and your lawyer read and discussed the pre-sentence  
16 report?

17 THE DEFENDANT: Yes, we have.

18 THE COURT: All right. You may be seated.  
19 Now, no objections have been filed to the  
20 pre-sentence report, and accordingly I will adopt it  
21 as the court's findings of fact, and the guideline  
22 calculations made there in. The defendant has a  
23 total offense level of 37, criminal history category  
24 of three, a, which translates under the advisory  
25 sentencing guidelines into a guideline range of 120

1 months, supervised release of two to three years, a  
2 fine range of \$20,000 to \$200,000, and a special  
3 assessment of \$200. The pre-sentence report makes no  
4 findings as to any possible restitution. I'll be  
5 glad to hear the parties in regard to the appropriate  
6 sentence in this case. First, from the Government?

7 MR. NEWBY: Yes, Your Honor. As we stated  
8 in our sentencing memorandum, the Government agrees  
9 with the probation officer's calculation, and would  
10 recommend a guidelines sentencing range of 51 to 60  
11 months per count.

12 THE COURT: The guideline range as  
13 calculated by the probation officer, as I just  
14 recited, was 120 months.

15 MR. NEWBY: Correct, but the statutory  
16 maximum for each count is five years, 60 months, so I  
17 believe the calculation was 51 to 60 months per  
18 count, as I understood it.

19 THE COURT: No, sir. The statutory maximum  
20 in this case is 120 months, sixty months for each  
21 count. So, because the calculation of the guideline  
22 range, and the reason it's 120 months is because that  
23 caps the possible sentence in this case. The  
24 guideline range was actually, I forget exactly what  
25 it was, but, but it was over 240 months.

1 MR. O'NEILL: It was 210 to 262, Your  
2 Honor.

3 MR. NEWBY: I guess what I meant to say,  
4 but inartfully, the Government agrees with the  
5 probation officer's recommendation, was that the  
6 sentence should be what, what the probation officer  
7 recommended, which is a maximum statutory sentence of  
8 120 months.

9 THE COURT: That's not what you said in  
10 your sentencing memorandum. In the sentencing  
11 memorandum you recommended a sentence of between 51  
12 months and 60 months. What does the Government  
13 recommend?

14 MR. NEWBY: The Government recommends a  
15 range of 51 to 60 months per count. What, I spoke  
16 with the probation officer before our hearing today,  
17 and he was, he also believed that the Government was  
18 recommending a total sentence of 51 to 60 months. I  
19 said that I had stated that, perhaps inartfully, and  
20 that we were recommending 51 to 60 months on each  
21 count, per count.

22 THE COURT: Do you have any evidence you  
23 wish to present other than what you just said?

24 MR. NEWBY: Nothing other than what we put  
25 in our sentencing recommendation, Your Honor.

1 THE COURT: Mr. Gunlicks?

2 MR. GUNLICKS: Yes, sir, Your Honor. First  
3 of all, we'd begin that no defendant to date has  
4 received the maximum under the copyright statute, the  
5 criminal copyright statute. We'd submit, Your Honor,  
6 that as far as the valuation is concerned, which is  
7 really what takes this case to the limit, otherwise  
8 the defendant would come out with approximately 18 to  
9 24 months under the guidelines without the valuation  
10 calculations.

11 There's been a wide range of calculations made  
12 not only by other defendants, also with this  
13 defendant. The court should take into account that  
14 the figures, both in this case and those that were  
15 provided, that the Digital Copyright Act passed were  
16 industry figures. According to David Nimmer, to date  
17 there have been no accurate compilations by  
18 non-industry actors regarding the true valuation of  
19 pirated goods on the internet.

20 First of all, Your Honor -- but I submit that  
21 the figures provided by the industry, in general and  
22 in this case, significantly overvalue the amount of  
23 damage caused by this individual defendant. \$19 a  
24 DVD, I suggest, is a little high for each single  
25 movie. Moreover, there are certain inherent

1 assumptions that calculation is proper, that  
2 probation did what is proper under the way it is  
3 typically calculated, but I submit to Your Honor that  
4 there are certain assumptions in those calculations  
5 that do not warrant finding or accepting blindly the  
6 figures provided by the industry.

7 First of all, there's an assumption that  
8 everybody who pirates a copy would pay for that copy.  
9 There's also an assumption that everyone who pirates  
10 a copy would not otherwise pay for that copy.

11 In other words, the court was presented with  
12 evidence of the quality of some of the material on  
13 the website. An individual might very well be  
14 inclined, after seeing the very poorly presented *Star*  
15 *Wars* rip off, for instance, that they would want to  
16 see it in a theatre given the lack of quality, or buy  
17 a copy themselves.

18 Moreover, Your Honor, this would go to the  
19 actual receipts that the industry lost due to the  
20 defendant's actions were far lower than submitted to  
21 Congress and to this court.

22 I'd like to remind the court, Your Honor, that  
23 the defendant was not intending to make monetary  
24 profit. There was substantial evidence that the  
25 defendant was pointedly not attempting to make a

1 monetary profit. There have been other cases where  
2 the defendants did make and were clearly intending to  
3 make a monetary profit, and received anywhere between  
4 two years supervised probation and 30 months.

5 Moreover, Your Honor, there's no evidence that  
6 the defendant, whatsoever, monetarily profited during  
7 his whole association with Elite Torrents.

8 Finally, Your Honor, as to the valuation, the  
9 Motion Picture Association of America was directly  
10 involved in the operations of this site from  
11 approximately August, 2004 to the date it was taken  
12 down in May, 2005. I submit it is somewhat  
13 disingenuous for the MPAA and other actors related  
14 thereto to be claiming losses when they, themselves,  
15 were calculating those losses they wanted to get to.

16 But regardless, Your Honor, from August to May,  
17 August, 2004 to May, 2005 the MPAA, at least, was  
18 directly involved in the operation of the  
19 organization. In fact, there was testimony that they  
20 were in a position to direct the operations, and  
21 moreover, they could have shut it down at any time.

22 Your Honor, regardless of the culpability of the  
23 defendant in the operations of this association, for  
24 the MPAA to claim that those are actually losses, I  
25 would just submit -- obviously, there is no answer to

1 this, but I'm curious as to whether a tax write off  
2 may have been taken for some of those losses.  
3 Moreover, Your Honor -- that's all there is to the  
4 valuation.

5 As to sentencing parity, the defendant  
6 understands that he could be paying a penalty in this  
7 case for not pleading guilty. Based on his  
8 understanding of the law, whether that was reasonable  
9 or warranted, or not, he wanted to have a jury of his  
10 peers decide this matter. He understands that now  
11 that he's been found guilty that, that that's, that  
12 he was, in fact, in violation.

13 But, Your Honor, he does understand that he  
14 could face more time because he caused the matter to  
15 go to trial. But the damage that he caused is not  
16 significantly different from the damage caused by  
17 other defendants in this case.

18 I, I submit a sentence like the other defendants  
19 in this case would be appropriate and consistent.  
20 Moreover, Your Honor, the two ring leaders I referred  
21 to previously that were under the direction of the  
22 MPAA, they have not even been charged in this case.

23 So, therefore, there's an inherent discrepancy,  
24 disparity in the manner in which these two defendants  
25 have been treated. The two most culpable are not



1 facing any charges related to this.

2 Finally, Your Honor, to sentencing parity,  
3 similarly situated defendants in cases, including  
4 cases where monetary gain was actually received,  
5 received between two years probation, and on average  
6 about 38 months in various forms of incarceration,  
7 and such.

8 Your Honor, I'd just remind the court that at  
9 the time Mr. Dove had an issue with marijuana that  
10 might have affected his judgment, and I would submit  
11 that to some extent Mr. Dove's behavior demonstrates  
12 what might arguably be called an addiction to the new  
13 stuff, to what's current. For Mr. Dove it was not  
14 the matter that these goods were free; it was the  
15 access that enticed him to his actions. In order to  
16 watch *The Simpsons* because he didn't have cable at  
17 his residence and wasn't able to receive it, and  
18 therefore his initial reason for even going to the  
19 website was simply to watch a TV show, and things  
20 spiraled from there.

21 Finally, Your Honor, there's no quibble with the  
22 conclusions of the report, nor can there be any  
23 disagreement with Mr. Dove's criminal record, but I  
24 submit that that record is not significantly serious.  
25 There was one previous felony which is counted,

1 obviously, the probation calculation, the guidelines,  
2 which was touched upon in this matter relating to a  
3 disagreement on e-bay, regarding e-bay.

4 Moreover, Your Honor, since the time that the  
5 actions in this matter were taken by Mr. Dove, he's  
6 been, he's had absolutely no offenses of any kind,  
7 he's been completely compliant with the terms of  
8 pre-release, he's appeared every time he should. He  
9 is here today, he's passed all of his drug tests.  
10 Getting back to the marijuana issue, he's no longer  
11 consuming that, so therefore I'd submit his judgment  
12 is a little more solid now than at that time in his  
13 life.

14 He's also grown up a lot, Your Honor. He has  
15 two daughters now, two and four. He has a wife. He  
16 is the sole provider at this time for his family. He  
17 has a business which has flourished. And he has, he  
18 has two full time employees and approximately 30 part  
19 time employees, and to varying degrees they depend  
20 upon the income generated by his business for their  
21 own income.

22 I, we'd just state prior to the time of the  
23 offense, before working at Crutchfield, and before  
24 becoming involved with Elite Torrents, the reason  
25 Mr. Dove was in Southwest Virginia in the first place

1 was he was working at a non-denominational Christian  
2 camp in Wise, which is where he met his wife,  
3 Tiffany, who is from Clintwood.

4 And those considerations with a family, Your  
5 Honor, and with a business, I would ask the court to  
6 take into consideration, that if Mr. Dove were to be  
7 sentenced for too long a time his business would  
8 certainly suffer, and depending on the amount of time  
9 would potentially fail.

10 Moreover, Your Honor, he would be required, his  
11 wife would be required to seek employment, which  
12 there is nothing inherently bad about that, but he is  
13 the sole provider at this time. His daughters are  
14 young, and as far as the welfare of his family is  
15 concerned it would certainly be a huge blow to his  
16 wife and two daughters should he be incarcerated for  
17 an extended period of time.

18 With those considerations, Your Honor, the  
19 defendant would request that the court perhaps adhere  
20 more to the 18 to 24 range. I mean, obviously he  
21 would prefer to have five months and five months.  
22 Alternatively, perhaps, the combination of ten months  
23 incarceration, ten months home imprisonment. While  
24 the court would consider another option, would be six  
25 months incarceration, 18 months home confinement,

1 which would come out to 24 months which would be the  
2 high end of the guidelines before the valuation is  
3 taken into account.

4 In addition, Your Honor, in order to get to that  
5 point and hopefully even lower, because he has this  
6 flourishing business whose yearly income is  
7 approximately \$750,000, he is in a position to pay  
8 substantial fine and/or restitution.

9 He's, I've discussed with him the \$200,000  
10 figure. He's amenable to that, and would certainly  
11 be willing to agree to a hefty financial burden in  
12 order to alleviate the, any term of incarceration  
13 and/or home confinement.

14 Should incarceration be imposed by the court, I  
15 ask he be allowed to report at a late date, and I've  
16 discussed this with the Government, but I would  
17 suggest two months, Your Honor. The reason therefore  
18 is he has this business, he's uncertain at this point  
19 in time what he's looking at in terms of sentence,  
20 and he needs to wrap up and organize the business in  
21 the manner that it can operate without him present,  
22 depending on how long he might not be present, also  
23 to determine based on the sentence whether or not to  
24 move his family from Bonita Springs, Florida back to  
25 Clintwood and to resettle them in an area where her

1 parents are and there would be child care available  
2 from family.

3 That said, Your Honor, thank you very much for  
4 your consideration.

5 THE COURT: Thank you, Mr. Gunlicks.  
6 Anything further in response from the Government?

7 MR. NEWBY: I'll keep it brief. I would  
8 like to respond to the issue of valuation.  
9 Valuation, using the retail value of each movie,  
10 multiplied by the number of downloads and uploads, is  
11 really taken straight from the sentencing guidelines  
12 recommendation, Section 2B5.3, and the application  
13 notes recommend that you use the retail value of each  
14 infringed item that is a legitimate good.

15 We heard testimony from the Motion Picture  
16 Association of America that \$19 was approximately the  
17 retail value of the DVD during the time period in  
18 question. The testimony from Grant Stanley  
19 corroborated that. He estimated the DVD, cost of a  
20 DVD that was approximately in that range.

21 Second, responding to counsel's suggestion that  
22 the Motion Picture Association was involved with  
23 running this site going back to 2004, I think that  
24 misstates the testimony and the evidence that came in  
25 at trial. The testimony was that the Motion Picture

1 Association began working with a source, his own  
2 source, approximately at the end of 2005. And -- I'm  
3 sorry, the end of 2004, beginning of 2005.

4 With regard to sentencing parity, we would make  
5 a point that the defendant would be penalized for  
6 taking this case to trial. Rather, the other  
7 defendants who pleaded guilty to their involvement in  
8 the same organization received the benefit under the  
9 sentencing guidelines of accepting responsibility.  
10 The defendant didn't accept responsibility here, and  
11 therefore obviously should not be given any benefit  
12 for that.

13 It's the Government's position that the evidence  
14 at trial showed the defendant did play a more  
15 substantial role in the operation of this group than  
16 any of the other previously sentenced defendants.

17 The defendant was a manager, he was the upload  
18 administrator. He's the person that recruited  
19 uploaders. He's the person that supervised them.  
20 He's the person that really made the whole system  
21 work efficiently. Therefore, his sentence should  
22 involve a longer period of incarceration than the  
23 other defendants.

24 THE COURT: Thank you, Mr. Newby. One  
25 other aspect. The Government has not requested, as I

1 understand, made any express request for restitution  
2 for victims, although the probation office has  
3 received, I believe, two requests for restitution,  
4 one from the Recording Industry Association of  
5 America on behalf of its members seeking restitution  
6 in the amount of \$47,000, and from the Lion Gate,  
7 Incorporated Entertainment of Santa Monica,  
8 California, seeking restitution in the amount of  
9 \$880,000 representing loss of royalties paid which  
10 would have been paid on the sum of \$22,000,000.

11 Mr. Probation Officer, are those the two requests for  
12 restitution that probation has received?

13 MR. O'NEILL: Yes, sir.

14 THE COURT: I'm, frankly, concerned about  
15 these amounts. The loss figure which the probation  
16 officer used in calculating the sentencing guideline  
17 range in this case is different from restitution. As  
18 counsel for the Government indicated, it may be  
19 possible to use retail value for a loss figure, but  
20 restitution requires evidence of direct loss  
21 proximately caused by the offenses in question. No  
22 objection was made to the loss figures used in the  
23 calculation of the sentencing guideline range, and  
24 I've already adopted those in the absence of any  
25 objection. But restitution is a different matter.

1           Again, I typically am reluctant to order  
2   restitution simply based on these victims' requests,  
3   particularly in light of the restitution request.  
4   I'm going to not determine restitution at this time,  
5   but leave that matter open, and I will allow counsel  
6   in this case to submit their views as to the  
7   restitution amounts, as well as the victims,  
8   themselves, both of whom are large organizations and  
9   can certainly respond to any questions that the court  
10   has. Simply on the basis of pieces of paper that  
11   they filed, and based on what I know about this case,  
12   I'm not prepared to order restitution in those  
13   amounts at this time. And I'm going to reserve  
14   determination of that amount for 90 days.

15           If there's nothing further, I am prepared to  
16   impose sentence other than restitution at this time.  
17   If there's nothing further, Mr. Dove, if you'll  
18   stand, please, sir. Mr. Dove, is there anything that  
19   you wish to say to me before I pronounce sentence in  
20   your case?

21                   THE DEFENDANT: Yes, Your Honor.

22                   THE COURT: Yes, sir, you may proceed.

23                   THE DEFENDANT: I just wanted to say that  
24   I'm sorry that I've gotten involved with this entire  
25   situation. I never went into it intending to, to



1 break the law. I never went into it intending to  
2 steal from anybody. As my counsel pointed out, the  
3 entire reason I got involved with it in the first  
4 place was I worked full time in the evening through  
5 prime time TV, and I wanted to watch a TV show that  
6 came on while I was at work. That's what got me  
7 involved with it in the beginning. I personally  
8 didn't see a difference in retrieving the television  
9 show off of the internet versus retrieving it from my  
10 television which I paid for.

11 To me, I guess, in my age group it's more of a,  
12 an issue of so many options, something that we've  
13 grown up with from cassette tapes to VCRs to DVDs, we  
14 grew up with different options. To us the internet  
15 is just another retrieval method for it. If we pay  
16 for it, then getting it from the internet didn't seem  
17 any different whether it was like borrowing VCR tapes  
18 with shows on them from friends and no one would  
19 consider that to be a serious crime. I've never met,  
20 never heard of anyone who had been charged or  
21 convicted in any way, shape or form of copyright  
22 infringement, or anything related to copyright. We  
23 are dealing with a case where, you know, we were  
24 dealing with drugs or robbery, of course we all hear  
25 situations like that and we all understand that's

1 wrong. When the willfulness factor is taken into  
2 account with copyright infringement, I think it's a  
3 heavy point that it's not a combination, and I can  
4 say with all honesty that I've never in my case heard  
5 of someone before, even when the FBI took down the  
6 website they post a note on the website, they said  
7 even when done for free over the internet it's still  
8 against the law. If I had seen that notice before, I  
9 would have, wouldn't have made such reckless  
10 decisions to continue doing it. But the Government,  
11 I think, knows that it's a common misconception that  
12 when done for free over the internet that it's not  
13 illegal, it's not an activity that's considered  
14 illegal, which is why I believe they put that notice  
15 up on the website to begin with.

16 Moreover, Your Honor, my family means everything  
17 to me. My two young daughters are very important.  
18 They rely on me for income, for stability and to be  
19 away from them is the only thing I'm concerned with  
20 at this point. My business is, you know, several  
21 dozen people rely on me for their income for their  
22 families, as well. If I'm incarcerated for any  
23 amount of time it will be detrimental to not just  
24 myself, but my family and dozens of other families  
25 and their children. That's all, Your Honor.

1           THE COURT: Thank you, Mr. Dove. First,  
2 let me say, Mr. Dove, that as the jury found, I  
3 frankly find your argument that you acted without  
4 willful knowledge of the wrongness of this to be  
5 completely unacceptable.

6           It's clear to me from everything I've learned  
7 about you in this case that you're an intelligent  
8 person, you have knowledge of the world, and I simply  
9 reject the idea that your knowledge of the scope of  
10 this conspiracy of the Elite Torrent operation would  
11 simply not harm anybody, or that it was somehow okay.

12           The property rights in intellectual achievement  
13 ought to be, and are known by everybody to be an  
14 important property right. We simply could not have  
15 the artistic and entertainment industry that  
16 Americans enjoy today without their property rights.  
17 Whether or not some movie companies or television  
18 companies are wealthy, or artists are wealthy is  
19 really beside the point. There are plenty of people  
20 out there not wealthy who depend on their property  
21 rights or intellectual achievements to make a living.  
22 It is simply inconceivable to me that you did not  
23 understand that what you were doing is wrong. I can  
24 more likely agree with you that you didn't think  
25 you'd be caught, that you thought everybody was doing

1 this, so that chances of you getting in trouble would  
2 be very small.

3 The fact that the Government did it, in part,  
4 based on urging of the movie industry and  
5 entertainment industry is of no consequence. The  
6 Government has the obligation to protect every aspect  
7 of our society. Again, the principle here is that  
8 intellectual achievement, artistic achievement is a  
9 property right that ought to be protected and not  
10 just made at the whim of anybody who's smart enough  
11 in technology to distribute it for free.

12 It's true that you weren't paid in dollars, but  
13 the evidence was that you shared the benefits of all  
14 this free entertainment, and you did not have to  
15 drive 30 minutes to the movie theatre, and you didn't  
16 have to pay Netflix, and you didn't have to get home  
17 early so that you could, you could watch broadcast TV  
18 free.

19 And I think the evidence shows more, it shows  
20 you really enjoy your role, it became a matter of  
21 pride to you that you were doing this sort of  
22 important thing. And I think that was all misguided.

23 Now, on the other hand, as your attorney has  
24 argued, I think, I think it's important to be  
25 evenhanded in this case, and the sentencing guideline

1 range, in my view, is very much excessive,  
2 particularly in view of the treatment of your  
3 co-conspirators. As the Government rightfully,  
4 candidly sets forth in its sentencing memorandum, of  
5 the six co-conspirators of the Elite Torrents group  
6 that have been sentenced, four, including Grant  
7 Stanley who was sentenced by me, received sentences  
8 of five months incarceration, and five months home  
9 confinement, followed by a period of two to three  
10 years of incarceration. Two other co-conspirators  
11 who were sentenced in other courts did not receive  
12 any prison time. One was sentenced to five months  
13 home confinement, to be followed by three years of  
14 supervised release. That defendant was the recipient  
15 of a motion for downward departure by the Government  
16 for cooperation. And one other co-conspirator  
17 received a sentence of straight probation. I believe  
18 that it is important that your sentence be at least  
19 in line to prevent disparity with these other  
20 defendants.

21 It is true, however, as the Government has  
22 indicated, that your crime is likely greater because  
23 you were a central participant, a leader in this  
24 effort, and accordingly I must take that into  
25 account.

1 I've also taken into account the good things  
2 about you, Mr. Dove. You don't have any serious  
3 criminal history. You're an intelligent person who  
4 has done things for himself. You have a family, and  
5 all of those things are why the sentence asked for by  
6 the Government, which is ten years imprisonment,  
7 would not be appropriate in your case.

8 Accordingly, pursuant to the Sentencing Reform  
9 Act, having considered the factors set forth in 18  
10 United States Code Section 3553(a), and after having  
11 consulted the Advisory Sentencing Guidelines, it is  
12 the judgment of the court that the defendant, Daniel  
13 James Dove, is hereby committed to the custody of the  
14 Bureau of Prisons to be imprisoned for a total term  
15 of 18 months on each count to be served concurrently.

16 Upon release from imprisonment the defendant  
17 shall be placed on supervised release for a term of  
18 three years. He must report to the probation office  
19 in the district to which he is released within 72  
20 hours of release from custody.

21 He must comply with the following mandatory  
22 conditions of supervision. He must not commit  
23 another federal, state or local crime. He must not  
24 unlawfully possess a controlled substance. He must  
25 submit to one drug test within 15 days of release

1 from imprisonment, and at least two periodic drug  
2 tests thereafter as determined by the court.

3 He must comply with the standard conditions of  
4 supervision that have been adopted by the court, as  
5 well as the following special conditions. He must  
6 provide the probation officer with access to any  
7 requested financial information. He must not incur  
8 any new credit charges, or open additional lines of  
9 credit without the permission of the probation  
10 officer. He must reside in a residence free of  
11 firearms, ammunition, destructive devices and  
12 dangerous weapons. He must submit to warrantless  
13 seizure of person and property by the probation  
14 officer, or other law enforcement officer whenever  
15 such officer has reasonable suspicion that the  
16 defendant is engaged in criminal activity.

17 He must pay to the United States a special  
18 assessment of \$200 which is due and payable  
19 immediately. It is further ordered that he pay to  
20 the United States a total fine in the amount of  
21 \$20,000, consisting of \$10,000 on each count.

22 The court will reserve determination of the  
23 restitution amounts for a period of 90 days, and will  
24 allow the parties in this case 30 days from this date  
25 to submit to the court any additional argument or

1 information regarding the amount of restitution,  
2 including the terms of payment of any amount of  
3 restitution that may be ordered by the court.

4 I will allow the defendant to self report to the  
5 facility designated by the Bureau of prisons, and I  
6 will allow the defendant 60 days before he must  
7 report to any such institution.

8 Now, I hereby advise the defendant of his right  
9 to appeal. A notice of appeal must be filed within  
10 ten days of the entry of judgment, or within ten days  
11 of a notice of appeal by the Government. If  
12 requested, the clerk will prepare and file a notice  
13 of appeal on behalf of the defendant. I also advise  
14 the defendant of the right of a person who is unable  
15 to pay the costs of appeal to apply for leave to  
16 appeal without pre-payment of such costs.

17 Are there any further matters that the court  
18 must resolve? Yes, sir?

19 MR. O'NEILL: Yes. Did you say the \$20,000  
20 fine, was that due immediately?

21 THE COURT: Yes, sir.

22 MR. O'NEILL: Thank you.

23 THE COURT: Anything further? If there's  
24 nothing further we'll recess court.

25 (Proceedings concluded at 2:05 p.m.)



CERTIFICATE

I certify the foregoing is an accurate transcript  
from the record of proceedings in the above-entitled  
matter.

9/14/2008  
Date

/S/ Bridget A. Dickert  
U.S. Court Reporter