

UNITED STATES COURT OF APPEALS

For the Eleventh Circuit

GEORGE W. HIGH, SR.
VIRGINIA C. HIGH

Appellant-Movants

v.

Case No. 94-8151

UNITED STATES OF AMERICA

Appellee-Respondent

RECALL OF MANDATE

PLEASE TAKE NOTICE that upon the annexed affidavit of George W. High, Sr. and Motion to Recall Mandate, Statement of Charges, and all papers in the action captioned United States of America v. George W. High, Sr., and Virginia C. High, Defendants, a motion will be made to the United States Court of Appeals, for the eleventh Circuit, 56 Forsyth Street, N.W. Atlanta, Georgia 30303.

28 USCA Title 28 Rule 41-1, Stay or Recall of Mandate

(b) A mandate once issued shall not be recalled except to prevent injustice.

1. Gradsky v. United States, 376 F.2d 993, Usually issuance of Mandate by Court of Appeals means that litigation has come to an end, but Court may recall its mandate to prevent injustice. U.S. Ct. of App. 5th Cir. Rule 32, 28 U.S.C.A.; 28 U.S.C.A. § 452.
2. United States v. Winterhalder, 724 F.2d 109, "Present federal law has made an appeal from a District Court's judgement of conviction in a criminal case what is, in effect, a matter of right." Coppage v. United States, 339 U.S. 438, 441. 82 S.Ct. 917, 919, 8 L.Ed.2d 21(1962). The criminal defendant is entitled to counsel on his first appeal of right as a matter of Constitutional law. Douglas v. California, 372 U.S. 353, 83 S.Ct. 814, 9 Led.2d 811 (1963)

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In August or September of 1991 (or thereabouts), IRS Agent David Jones came into the office and asked to see George or Virginia High, and we were both busy so he talked to Eric High until Virginia came out to see him. That was the office of High's Realty, Inc.. He told Virginia that he had been instructed by a client of ours to come to the office and get certain information. My wife was a bit reluctant to release any information pertaining to a client, so she called me from my office, and I point blank asked him if this was about any tax investigation of the persons, and he said no. I told him that we could not release any files about anyone without their permission, and I would be happy to call the person and get their approval. I called them and no one answered, and I tried to call the person on their pager and they did not return my call, so I told him that after I get in touch with them I would give him the information if they said so, and he said that he would check with us the next day, or drop by because he would be in the area. The client called us later and told us that it was O.K. to give them the information, and that it was about some back taxes. David Jones came back the next day and asked my wife some questions about our record keeping, and how did we keep track when people pay rent or or other monies owed? Virginia asked him if he was investigating us, and he assured us that we were not under any investigation. She gave him some information and he thanked her and left. Sometimes later we came in the office and he was talking to our son Eric High about the opportunities and benefits at the IRS, because Eric had told him that he had finished Georgia State University with a degree in Accounting and would soon be sitting for the C.P.A. exam. David Jones kiddingly said that "Mrs. High" I'm trying to recruit Eric from yall. Virginia said that she had some calls to return and a appointment so I invited him in my office, and I asked him why he had not called and made an appointment and he said that he was just in the area and dropped by. He said that he understood that I had sold the client some lots in Southwest Atlanta, and also asked me about a 2nd mortgage I had on a property on Morial dr.? I asked him if he is investigating us because it seemed like he was more interested in our business than the client. He assured me that he was not investigating myself, my wife, or our office, and he then said that if he was investigating us he would have to inform us of such. I told him to put in writing everything that he wanted so I could pass it by our client, and I could see that he was not too happy with handling things in that matter, and he left and said that he would be back in touch with us.

On October 17, 1991 at about 9:00 A.M., Virginia and I were backing out of our rear-entry-garage when a car care around to the back of our house very fast and blocked us in, and motioned for us to let our windows down, and we complied. They identified themselves as IRS investigators and said they wanted to talk to us. I told them that we were on our way to an very important appointment and would meet with them later. Ther agreed and gave us their card and asked us to call them when we returned. Virginia made mentioned of the fact that they both had guns, because they were on either side of the car and leaning down and their coats were opened. We got back about around noon and called them and they were there in 15 minutes. They drove around to the back of the house again and came to the back door. I invited them into the breakfast room and we were seated. Virginia asked them if they were still wearing their guns, and agt.

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Silinski said yes and Virginia said that she did not like strangers wearing guns in our home. Agt. Silinski said that it was a policy that they always wear firearms. Agent Silinski was accompanied by Agt. Michael Scamid, and they were both "white". Agt. Silinski said that he wanted to ask us some questions, but first he said he wanted to read us our rights, which he proceeded to do. He asked us numerous questions about our taxes, cash on hand, gambling, if we borrowed any money from people? Some questions we answered and some we did not because my posture was that: when two armed white men invade our home un announced and read me my rights well....after about 2 hours of a lot of questions and a very few answers, agt. Silinski left us a list of items that he wanted us to get for him. Virginia was also making a list of things that he was asking about.

Within a day or two Virginia was in her office and I was at the fax machine and she said George look whos coming across the parking lot, and it was David Jones. He cam in and spoke and said that he had been very busy, but he finally got around to getting the list that we had requested. If I recall correctly there was only Virginia in the office and we talked in the reception area, and we told him about Agt. Silinski having come by our home and reading us our rights and also asking for a list of items. He could not seem to be able to place agt. Silinski, and said he may work at the federal building or at another office. I had reminded him that he had assured us that we were not the subject of any investigation, and he again said that he was not investigating us. He asked me if this agt. whats-his-name specified any properties, and I said yes but I told him that I did not have the list with me. He asked me if I had his card and I showed it to him and he said he could not place him. I looked over the item that he wanted (David Jones) and I had already asked the owner about the properies that he had asked about some times ago and he said to give him what he wants, because if I did not, he would get a subpona or a search warrent. I asked him if this was all he wanted, and he said yes and he did not think he need to come back.

Within about 2 weeks agt. Silinski called and asked about the items and Virginia told him that agt. David Jones from the IRS had got some of the things that he wanted, and he asked who was David Jones, and she told him that he had been coming around for the last couple of months asking about a client, and he told her he wouls get back with her and he was going out of town for a couple of weeks. We came in the office one day in early December and a Real Estate agent who was on floor duty said a white man came by and ask for Mr. or Mrs. High, and she said they are not in, and if he would like to leave a message or a card and he said no. The agent described Agt. Silinski to a "T". About two weeks later he called while we were having a Christmas Party and asked about the list and I told him that this was a very bad time because we aere having a Office party, and he said he would check back with us after Christmas.

When we came back to the office after News Years day (1st week), The invstigator from the Georgia Real Estate Commission came in and gave me a copy of a ruling informing me that the Licenses of High's Realty, Inc., and George High had been revoked, and he told me that I was to cease doing Real Estate business immediately and remove all

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real estate signs, inform all agents to transfer and to close down High's Realty, Inc.. The office address on High's Realty, Inc. was 6118-D Covington Hwy., and that was the office where David Jones came to on numerous occasions in 1991. We closed operations in late January of 1992 and Virginia High transferred her license to Real Estate Portfolio at that time. The Real Estate Commission "Revoked" the Real Estate license of **George W. High, Sr** and **High's Realty, Inc.**, on **January 8, 1992** for felonies that involve moral turpitude e.g. armed robbery February 29, 1960, and Burglary on February 29, 1960, and for other reasons.

Agt. Silinski paged one day and I returned the call and he asked me again about the items and I told him that I had personally gave some of the items to David Jones, and I wanted to know what was going on, and he said that he was not working on a case with any David Jones. He said Mr. High are you or Mrs. High going to get me the items that I requested, and I said "no". Virginia was not with me at the time, and I told her later and we decided that it was time to get a Lawyer.

Virginia or I called Att. Robert Burroughs and he referred us to C. Michael Abbott. Virginia called Michael Abbott and he told her to come down to his office. We went down and explained the situation and he said agt. Silinski and I'll call him right now, which he did, and he told agt. Silinski that Virginia was in the office and he wanted to know if she was the target of any investigation, and agt Silinski said he could not say. Attorney Abbott said that if she would give him \$5,000.00, he would find out what it all about and agt. Silinski would not call her anymore. She said she could write him a check and he said that he preferred "cash", and she wrote the check and cashed it for him. He had told her when she called that she need to bring \$5,000.00. True to his word, agt. Silinski did not call back again.

Alex Turner was the case agent from 1987 until March/April 1992, at which time he was terminated and Barbara Brown became the case agent. Very shortly thereafter agt. Silinski began seizing some properties, and took \$12,000.00 from Virginia's bank account, and waylaid a insurance check in the amount of \$15,000.00.

On **June 8, 1992** Kyle Henry and his lawyer made a contract with the IRS to receive 25% of the first million collected by them and 10% of the remainder, but the maximum Kyle Henry could receive from the IRS was one million dollars. The U.S. Attorneys office made a contract with Kyle Henry for 25% of everything that they received.

On **June 17, 1992**, Virginia and I was in the office and Eric High and a client was leaving and when they got in the parking lot David Jones, agt. Silinski, and a black female were in the parking lot looking at Virginia's car, and when David Jones saw Eric they spoke and he (David Jones) asked where Mrs. High was, and Eric said in the office. Eric showed him the office, and David Jones and the black female rushed in while agt. Silinski kept Eric and his client outside. David Jones said "freeze" and keep your hands in sight and he had his hand on his gun and the female agent had her hand on her gun also, and she told Virginia to put her hands on the wall and she began to search her, and she told Virginia to take her rings off and leave them on her desk, and she handcuffed Virginia and agt silinski came in about that time.

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David Jones was standing very close to my desk and watched me very closely. agt. Silinsky and the black female with Virginia and David Jones waited a couple of minutes so they could get outside. I found out later that agt. Silinski, David Jones, and the black female had went to Real Estate Portfolio in another building in the office complex and asked for Virginia and they told her she was not there, but they offered to page her but they said that was O.K.. agt. Silinski had been to Real Estate Portfolio on at least 2 prior occasions so he certainly knew that High's Realty had gone out of business and that Virginia's license had been transferred to Real Estate Portfolio.

Virginia was indicted that day and we posted a \$100,000 property bond. She called Michael Abbott and after she was and he said when he gets a copy of the indictment, he'll get back with her. I do believe that June 17, was on a Thursday and we went to see him early the next week. I was with Virginia and we both talked to Michale Abbott and he said that the government was interested in some people who we had sold some houses to and they wanted her to cooperate with them. Virginia nor I did not understand much about what was going on and Michael Abbott said that did not want to send her to prison, and that he could talk to the prosecutor and felt certain that she could get things settled. Virginia said that she was not pleding guilty to anything because she had not comitted any crime. Michael Abbott told Virginia that if she did not cooperate that there would be another indictment and I would probably be included.

On July 9, 1992, there was another indictment including Virginia, myself and 3 black males. I was released on \$100,000.00 bond. Virginia and I made applection to be appointed counsel because the government had seized all our cash, and Virginia's bank account, and seized some properties and we were not able to afford to hire attorneys. I was appointed William (Bill) Morrison, and they appointed Michael Abbott for Virginia they said he was already representing her.

On July 27, 1992, at about 6:00 A.M. about 30 government agents exrecuted a search warrant at our home, and Agt. Silinski was giving orders and the black woman who arrested Virginia and Sheila Whipple went upstairs to the master bedroom because Virginia was not dressed. I was fixing coffee when I heard all of the commotion, so I asked if I could have coffee and agt. Silinski said yes. Virginia came down later and they asked us to sit in the family room. They were opening closet doors and lookin in every room to see if anyone ealse was there, and they tried the door to the lower level and it was locked, and an agent asked what was that? I said that it was the basement and our Son Eric and his wife rented the basement apt. The agent called agt Silinski and he said "Oh! this house have a basement? I told him that the entrance was outside. He told me that he had a search warrant to search the entire house, and he kept knocking on the door and Eric opened the door and and agt. Silinski told him that he and his wife would have to come up to the family room while they searched the apartment. The basement had 2 bedrooms, full bath, washer & dryer, fireplace, sink cabinets, refrigrator, a seperate entrance and the furniture belonged to Eric and his wife. agt. Silinski called me up to the master bedroom and told me to open the safe, or he would take it with him, and I opened it.

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After opening the safe, agt. Silinski told me that I needed to accompany some agents to the office because they also had a search warrant for there also. We got to the office about 7:00 A.M. and Shelia Whipple followed me, and when we arrived me, and when we arrived I saw Alex Turner (FBI agent) and about 4-5 other agents were there, and when I opened the door, the search began. I heard Shelia Whipple tell a agent that this was the office of High, Realty, and I told her that this was the office of Georgia Home Improvement, Inc., High-Five, Inc., and Bal, Inc.. She ignored me or did not hear me, because I was in the back office, and I got up and went to the reception area where she was and again told her whos office this was. I told her that if she had looked on the door she would see Georgia Home Improvement, Inc., of she could go to the management office and see whos office thie is. I told her in the presents of the other agents that High's Realty had been out of business since January, and had never been at this location. She told me to please have a seat and that they knew what they were doing. Agt. Silinski came over about 1:00 and said that they had finished searching the house and he started going thru files, and I also told him that if the warrant was for High's Realty, he was at the wrong place, and I told him that certain files belonged to Georgia Home Improvemnet, Inc., High-Five, Inc., and Bal, Inc.. He just ignored me and went about his business. They seized at least 30 cases of files, 3 computers, all computer disks, checkbooks from each of the cooperations cancelled checks, stock certificates, personnel files, address books, appointment books, and clients taxes. They took the list of items that David Jones had given us, and they also took the appointment book with the dates and visits that he had made, giving the illusion that he had never been to High's Realty, Inc.. they also took the list of items that Bill Silinski had requested. They took files dating back to 1971. I had a copy of the ruling by the Georgia Real Estate Commission dated January 8, 1992 revoking the license of High's Realty, Inc., and George W. High, Sr., and they took that, so there was no way they could say that they did know whos office that was. During the search Shelia Whipple brought me a picture of Hank Aaron hitting home-run # 715 in April 1974 that she had found in the old "green" file cabinet (Virginia and her sister was at the game). I also had a copy of the Colorado law stating that my Civil Rights had been restored, and also that my rights to possess firearms had been restored also, and they also took that. They finished searching the office around 5-6:00 P.M. After they finished searching and seazing, thae was no evidence that Georgia Home Improvement, Inc., High-Five, Inc., and Bal, Inc., had ever existed, and soon thereafter we moved our office home. They even took nomerous 2nd mortgages that belonged to the cooperations, and they took all the leases on all the properties that High-Five owned.

I went home and Virginia told me that she was not able to see what they were taking because Agt. Silinski instructed she, Eric, and his wife to stay in the family room, and they were taking boxes and files through the front door, through the garage, the back door, and they took all the items from the apartment through the outside entrance. They took my briefcase and the .25 firearm and every credit card in the house, they took all the files that Eric had in the basement apartment. They took another computer and every address book in the house. They took the check where we had paid Michael Abbott \$5,000, and they took the first and second indictment.

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After the the search was conducted Virginia Called Michael Abbott and made an appointment to see him. Within a few days we went to see Attorney Abbott and he told Virginia that she needed to start cooperating because there was no chance of her being found not guilty, because the government had more than enough evidence for a conviction since the search. Virginia told Michael Abbott that the search was Illegal because High's Realty had been out of business for six months, and had never been at that location. He said that if they found anything with High's Realty name on it, then there was probable cause to search. She also told him that they had seized numerous items from Eric and his wife's apartment, and he told her that he was a Former Prosecutor and Assistant United States Attorney, and those issues was losers. I was present at the meeting and he said that she must make a decision soon.

The first visit I had with William Morrison was sometimes after the search, and the first words that came out of his mouth was You need to start cooperating right now because the evidence was overwhelming. He told me that the prosecutor wanted Virginia and I to come down and go over all of the records with them and tell him how all those people bought houses, and I could get a very short sentence at a "camp" and he could assure me that Virginia would no go to prison if I made a deal right now. I told Bill no thanks, and that we were Innocent and would not be plead guilty to anything and that was my first and final answer. He told me not to try to play hardball because Allen Moye does not lose any drug cases. I told him about the Illegal search and seizure at Georgia Home, Improvement Co., Inc., and how High's Realty had lost its license in January. He told me that he use to be a U.S. Attorney and that argument "wont hold water" because they had probable cause. He told me if I did not cooperate now, the steaks would get much higher. I told him that I was not changing my mind under no circumstances

On December 17, 1992 (just like Bill said), after almost five months of "rummaging" through the mountain of Illegally seized evidence, the government got the third indictment that included myself, Virginia, and 13 other individuals. The prosecutor had really "upped the ante" and charged Virginia and I with count # 1, Conspiracy to possess with intent to distribute 5 Kilograms of cacaïne and 50 grams of crack. I was also charged with count # 3 and # 9 (the firearm counts).

After the third indictment Bill Called me to his office. Upon my arrival he said: George "Boy" you aint got a prayer, and these are some very serious charges, and you and Virginia could go to Prison for the rest of yall's life. Bill told me that Allen Moye was still willing to make me a "sweet deal", for me to pled guilty for 25 years, and to cooperate and tell everything that I know and and to persuade Virginia to do likewise, and I could later get a 5K-1 and a rule 35, and he said maybe, just maybe, (no promises he said) Virginia would not have to go to prison. I told him again how David Jones trick us by not reading us our rights, and then arresting Virginia. I also told him how they searched Georgia Home Improvement Co. Inc., when in fact the warrant was for High's Realty which had been closed since January. I also told him that my rights to possess firearms had been restored and I had a copy of the ruling and they seized it. He became very upset and "irate" and said: George do you think the FBI, ATF, DEA, IRS, GBI, and the U.S. Attorneys office is stupid enough to search your house and seize a firearm and make false charges against you before the grand jury? I told him that I did not know how stupid they were but I know that all my rights had been restored and I could legally

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Possess a firearm. He told me if any rights had been restored they would only apply to Colorado and would have no effect on federal law. With him being a former Assistant U.S. Attorney, prosecutor, and my defense lawyer, I assumed he knew what he was talking about. Bill told me that my main problem was the drug charge, and he told me to discuss the matter with Virginia and get back with him and maybe we could "cut-a-deal". When I got home I discussed the matter with Virginia and she said: "Aint no way" we will make a deal because we are innocent and if we go to prison "so be it". We never vacillated, and until this day we remain steadfast.

Attorney Michael Abbott called Virginia within a day or two after me seeing Bill Morrison. I went with her and stayed in the restaurant on the mezzanine floor of his building. After the meeting she told me that Michael Abbott had said that he had forewarned her that that there would be another indictment and the charges would be more serious. He told her that it would be "suicide" to take this case to trial because it was "cut and dried". He told her that she had no choice but to cooperate because the evidence was "overwhelming", and when she was found guilty she would get considerably more time. He told her that if she went to trial that she would certainly be found guilty, and that he could assure her that she would get at least 25 years and possibly life. He asked her if I was telling her to not cooperate, and said that if she listened to me she was going to prison for a very long time. He also told Virginia to not bring me to his office again. I told Virginia that this was a "flat-out-frame-up", and she said that she was hoping for the best but prepared for the worst.

Within a few days Michael Abbott called Virginia and told her that he had a very good idea that could well work in our favor, and he proceeded to tell her that if we agreed to a polygraph exam, we may be able to get it entered into evidence to prove our innocence. She said that she would discuss the matter with me and get back with him. That same day Bill Morrison called me about the same thing and tried to persuade me to agree to it and I told him that I would get back to him after we discuss the matter. Virginia or I had never taken a polygraph exam, so we did not know the pros and cons of it but we agreed to the test and called Michael Abbott to set up an appointment. He said the cost would be \$500 each and. We went to Michael Abbott's office for the test and Bill Morrison came shortly after we arrived. Virginia took the test first and the examiner said that she had failed miserably, and the test proved that she was guilty. I took the test and he asked me about 7-10 questions and the test showed that I was being deceptive, or so he said. He had a laptop computer and a ink-jet printer and showed me the lines going up and down which proved that I was not being truthful, and at that point the examiner became the interrogator and told me that I could help myself and my wife, and that prison is not a nice place, and he said that I should make a deal which would assure me of a much lighter sentence. He told me that I should just get it off my chest and confess, and how proud my wife would be of me by keeping her out of prison. I told him I did not have any confession to make to him or anyone else so he could and should leave me alone.

After the test were finished Michael Abbott, Bill Morrison, Virginia and myself all had a meeting. They told us that the test proved that we were guilty and we had no choice but to cooperate. Bill Morrison and Michael Abbott said that Allen Moye wanted us to come down

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to come down to his office and go over all the records they seized and tell them how all those people bought houses, and he would then recommend a much lesser sentence. Bill Morrison said the government did not want to put us in prison because we were not drug dealers. I again told Bill Morrison and Michael Abbott together about the illegal search and seizure at the office and the home, and that my rights had been restored and I was not a convicted felon. I also told them that the two firearm charges were false, and asked them to investigate the firearm charges with Colorado and they would know that my rights were restored. I also told him that High's Realty had been out of business for six months and that they searched the wrong address. Bill Morrison said that I must think the government was a bunch of "dimwits". Michael Abbott said that if I let them be the lawyers and take their advice we would fare much better. They said that all of the charges will be prosecuted if we went to trial, and they could assure us of a long prison sentence. They asked what had we decided about pleading guilty and cooperating. Virginia and I emphatically and in no uncertain terms told them that we would not plead guilty to any of those false charges, and that we were going to trial, and that was that, and the meeting was over.

Our trial began in September of 1993 and before it was over the prosecutor had the dealer who sold me the firearm testify, and also the FBI agent who found the firearm testified, and an agent from the ATF who testified my gun, and the prosecutor waved the firearm before the jury on at least 4 occasions. The prosecutor had a witness from the Colorado State Prison who was supposed to testify and attest to the fact that I was a convicted felon and had served time in the Colorado State Prison. Allen Moye found out that the witness was going to testify that a person's rights are restored when they walk out of the Colorado Prison. I got out of prison in 1962. When the prosecutor found out that the witness was adamant about not perjurying himself, Allen Moye refused to let the witness testify, because there would have been a mistrial, acquittal, or dismissal of the indictment. Allen Moye hatched a plan with Bill Morrison and told him what the deal was, and said that he wanted him to get George High to admit that he had served time in Colorado, and the witness could take a hike. He also told Bill that he, Joe D. Whitney, William Silinski, Shelia Whipple, Barbara Brown had all made a million dollar deal with Kyle Henry, and that they had a lot riding on this trial. I saw the man waiting outside the courtroom to testify, and Bill told me that there was a guy from the Colorado State Prison who had been waiting to testify for two days and he had a very serious emergency in his family and needed to return home, and he was only going to testify to the fact that I had served time in Colorado from 1960 until 1962, and Allen Moye wanted to prepare a statement saying that I had served time in Colorado, and the guy could catch a plane. I told Bill Morrison that I was not pleading guilty to nothing because I still believed that my rights had been restored and the gun charges were false. He assured me that I was only saying that I had served time in Colorado. Bill brought me a statement to sign stating that "The defendant, George High, is a convicted felon as alleged in counts three and nine of the indictment". I told Bill that I was not at all pleased with the statement referring to counts three and count nine, but I signed it anyway. I immediately asked Bill Morrison for a copy and told him that I did not trust Allen Moye, and he said that it had to be signed by the U.S. Attorney Joe D. Whitney, and he assured me that I would get a copy, and it would be just what

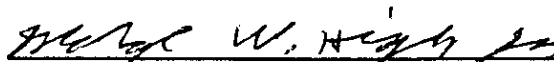
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I had signed. [vol 10 page 38,39 transcript, October 5, 1992] By Allen Moye: I have a stipulation that has been signed between the United States and Mr. George High regarding government exhibit No. 34. It is hereby stipulated by and between the United States, By Joe D. Whitney, United States Attorney, Northern District of Georgia, and H. Allen Moye, Assistant United States Attorney, and the defendant George W. High, and his counsel, William Morrison, as follows: The defendant, George High, is a convicted felon as alleged in counts three and nine of the indictment. The defendant, George W. High, has not been pardoned or received any executive clemance from the conviction aforesaid. I told Bill Morrison that the statement had been changed by Allen Moye, and I reminded him that I said that I did not trust him. Bill Morrison said that is the exact statement that you signed, and maybe you forgot.

Numerous witnesses comitted perjury during the trial whos names will be mentioned in the statement of charges. Virginia and I was found guilty and sentenced to long prison terms, and we reported to prison on March 28, 1994, and have been incarcerated since. Our fight for Justice and freedom began in earnest on that day because we knew that we were "framed" and unjustly convicted and falsy imprisoned. We knew that the price of freedom is "Eternal Vigilance". Within a short period of time Virginia was able to get a job in the prison Library, and to also take courses in Criminal law, and a para legal course. From day one I was in the law library 7 days a week, and we did began to make some headway. On July 4, 1996 I discovered the cases U.S. V Hall 20 F.3d 1066 and also BEECHAM v. U.S., No. 93-445, 5/16/94, which proved me innocent of the firearm charges. I called Bill Morrison on July 5th and he said that he would look at my file, but he said that if he remember correctly, my sentences were concurrant, so even if the information was correct it would not gain my freedom. I followed up with a letter to him that weekend. He wrote back and said that we should wait until after the Appeal is over, which made me very suspicious. I sent copies of the cases to Virginia and also copies of the letter I sent to him and his responce. We than knew that we had proof that we were framed, and we began to to do research on all the issues. I also wrote Bill Morrison letters stating that my Constitution rights had been violated because of the Illegal search and seizure and the right to bare arms. I also insisted that he do an admendment to the appeal, as it had not been placed on the calander yet. I sent him numerous letters and all to no avail, because I knew that he was in "collusion" with the prosecutor and they would do anything to get the drug conviction upheld, because they had indicted others because of the Illegally seized information from my office and home. To make a long story short, Bill Morrison, Michale Abbott, Allen Moye, and others known and unknown are aware of all of this information, and I sent him most of it in mail before the Oral arguments on our Appeal, and my wife and I in "unison" made all of this information available to Bill Morrison, Allen Moye, and Michael Abbott, and they all "procrastinated" until the 11th cir. upheld the sentence and conviction, and then Bill Morrison said that even if Allen Moye pertitioned the court to vacate the firearm charges, you would still have the same sentence.

I declare under the penelty of Perjury that the foregoing is true and correct.

Exercuted on September 7, 1998


George W. High, Sr.

1. U. S. Const. Amend. # 1 George and Virginia High, has petitioned the Court on numerous occasions with valid motions, and has made our attorneys aware of all this information, "all to no avail". I have discovered that the reason we are "Stonewalled" at every turn is because the government had indicted others as a result of the illegally seized evidence, and people have gone to prison. Michael Abbott and Bill Morrison still insisted that we cooperate in the midst of the the government and prosecution "Misconduct".

2. U.S. Const. Amend. # 2 Right to bare arms
William Silinski (IRS), and Terry Sosbee (GBI), knew or should have known that my rights had been restored in 1962, when they seized my legal firearm during the illegal raid on our home, on July 27, 1992.

3. U. S. Const. Amend. # 4 Illegal search and seizure at the residence of George and Virginia High By William Silinski, Shelia Whipple, Terry Sosbee, and unknown black female who arrested Virginia, and about 20 + other agents unknown.

Illegal search and seizure at the "alleged" office of High, Realty on July 27, 1992, when in fact High's Realty, Inc., had never been at that location, and their license was revoked on January 8, 1992. That was (and always had been) the office of Georgia Home Improvement Co., Inc., who shared office space with High-Five, Inc. and Bal, Inc. Shelia Whipple, William Silinski, Alex Turner, and about 4-5 other unknown agents.

4. U.S. Const. Amend. # 5 Indictment was "fatally defective" and should have been dismissed "with prejudiced", for the following reasons.

After 5 months of "rummaging" through a mountain of illegally illegally seized evidence from High's residence and Georgia Home Improvement Co., Inc., the government carried it before the "biased grand jury" and Hoodwinked them into granting 3rd indictment, and charging the Highs on count # 1, and charging George High with the two false firearm counts, and they "furthered" lied to the grand jury and said that I was a convicted felon, and that my rights had not been restored.

18 USC § 1623 False declaration before grand jury or court.

William Silinski, Shelia Whipple, Kyle Henry, Anna Grazette, Antonio Moses, Winfred Cornell Jordan (10/28/92 and 11/5/92), and others known and unknown... "Wilfully and Knowingly" made false and fictitious statements to deceive the grand jury into indicting George and Virginia High.

Twice put in jeopardy of life and limb... I was convicted in 1960, and all my rights were restored, and again convicted in 1963.

...Nor shall be compelled in any criminal case to be a witness against himself. Bill Morrison and Michael Abbott "Bombarded" Virginia and I day and night practically 7 days a week from July 1992, up until, and during trial in September and October 1993. I have no less than 5 letters he has written me since being in prison, stating that the government was interested in this person or that person, and he would file a 5K-1 for me. He told me that I was an "old man" and may die in prison. Everytime Virginia called Michael Abbott, he only talked about cooperating and told her that if I loved her, I would not allow her to "rot in prison". As late as 7/97, Michael Abbott tried to get Virginia to lie on me and other people, and she refused and he quit her case.

...Nor be deprived of life, liberty, or property, without due process of law...

PERSUANT TO 21 USC § 853 and 18 USC § 982, Our properties (real and personal) were Illegally forfeited after "fraudulent" conviction to pay Kyle Henry, because the IRS had made a million-dollar-deal with him, and the U.S. Attorneys office had a contract to pay him 25% of all they received, and according to the last indictment, the government seized in excess of 8 million in cash, property, vehicles, and other valuables.

18 USC § 1622, Subornation of perjury. Allen Moye procured Anna Grazette, and Winfred Cornell Jordan to commit perjury before the grand jury, and "knowingly" allowed perjured testimony to stand uncorrected on numerous occasions before the grand jury.

5. U.S. Const. Amend # 6 Right to speedy trial.

From first indictment to trial was 15 months, because Allen Moye, William Silinski, Shelia Whipple, Barbara Brown, and other known and unknown, had to rummage through the Illegally seized evidence, so they could frame us and get false indictments, because there would have been no trial or conviction without that evidence.

...By an impartial jury of the State and district wherein the crime shall have been committed...The jury was by no means impartial because of the following...

18 USCA § 1512 (b)(1) Obstruction of justice: Allen Moye caused Anna Grazette, David Wallace, Winfred Cornell Jordan, Antonio Moses, Ladaris Patrick, and Sims Jinks to lie under oath at trial.

18 USCA § 1512 (b)(2)(A)(D) Tampering with a witness....

Allen Moye refused to let witness from Colorado testify that my rights had been restored, and under 18 USC §§ 2, Joe D. Whitney, William Silinski, Shelia Whipple, Barbara Brown, Bill Morrison, Michael Abbott and others known and unknown would be guilty of conspiracy.

18 USCA § 1512 (b)(2)(3) George and Virginia High has been hindered, delayed, and prevented from reporting the commission of a federal offense by Allen Moye, Joe D. Whitney, William Silinski, Shelia Whipple, Barbara Brown, William Morrison, Michael Abbott, and others known and unknown.

18 USCA § 1621 Prejury The forlowing persons comitted perjury at trial: Anna Grazette, Winfred Cornell Jordan, Kelvin King, Antonio Moses, Sims Jinks, David Wallace, Ladaris Patrick, and others known and unknown.

6. U.S. Const. Amend. # 8 Allen Moye "insisted" on \$100,000 bail for Virginia High, and \$100,000 bail for George High on some "trumped-up-charges", after the government had illegally seized the properties, \$12,000 from Virginia's bank account, and waylaid an insurance check in the amount of \$15,000, of which I think was excessive, and for me to be sentenced to a total of 13 years and one month on some false firearm charges is certainly "cruel and unusual punishment".
7. U.S. Const. Art. 1, § 2. Cl. 1 Right to vote for Senators.
My right to vote was restored in 1962, and the government knew or should have known when they "Knowingly Framed Me" on the two false firearm charges, and caused me to be sentenced to 13 years and one month. Joe D. Whitney, Allen Moye, William Silinski, Shelia Whipple, Barbara Brown, Bill Morrison and Michael Abbott.
8. 18 USCA 1865 The right to serve on a jury.
That right was restored in 1962, and the government knew or should have known when I was falesly indicted, charged, and convicted of the firearm charges. Allen Moye, William Silinski, Shelia Whipple, Barbara Brown, Bill Morrison, Michael Abbott, Joe D. Whitney and others known and unknown.
9. 18 USC § 922 (a)(6) (count # 3) False statement in acquiring firearm.
Question 8(b) on form 4473 states: Have you been convicted in any court of a crime punishable by imprisonment for a term exceeding one year? "Note"...A yes answer is not required if you...have had your civil rights restored. (convicted and sentenced to 60 months).
10. 18 USC § 922 (g)(1) Convicted felon in possession of a firearm.
Defendant, George High did not have a predicate crime punishable for a term exceeding one year, as defined by 18 USC § 921 (a)(20), as my rights had been "restored" and my possession of a firearm did not violate the law. (Convicted and sentenced to 97 months).

11. U.S. Const. Amend # 13 Neither slavery nor involuntary servitude, except as a punishment for crimes whereof the party shall have been "duely convicted", shall exist within the United States, or any place subject to their jurisdiction.

George and Virginia was not duly convicted, and in fact was "framed" by: Joe D. Whitney, Allen Moye, William Silinski, Shelia Whipple, Barbara Brown, William Morrison, and Michael Abbott.

12. U.S. Const. Amend. # 14 ...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

That right was violated when the highest police power in the State of Georgia (The Georgia Bureau of Investigation), in the person of Terry Sosbee participated in the armed, illegal raid at the residence of George and Virginia High, and it was in fact he who found and searched my briefcases (illegally), and seized the firearm, also William Silinski, Shelia Whipple, Unknown black female who arrested Virginia and about 20 other unknown agents.

13. Selective Prosecution, U.S. v. Armstrong No. 95-157, (5/17/96)

A selective prosecution claim is not a defense on the merits to the criminal charge itself, but an independent assertion that the prosecutor has brought the charges for reasons forbidden by the constitution.

A Majority of the Supreme Court declared May 13, 1996 that: A defendant must, at least make threshold presentation of evidence tending to show that similar situated person of another race was not prosecuted (Kyle Henry, white).

That the prosecutorial policy had discriminatory effects and that it was motivated by discriminatory purpose

Joe D. Whitney, Allen Moye, William Silinski, Shelia Whipple, Barbara Brown, William Morrison, Michael Abbott, Kyle Henry, and others known and unknown.

14. TITLE 18, UNITED STATES CODE, SECTION 201 (c)(2)

Title 18, United States Code, Section 201 (c)(2) provides as follows
(c) Whoever-

(2) Directly or indirectly, gives, offer or promise anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, ... Shall be fined under this title or imprisoned for not more than two years.

The following persons testified at trial, grand jury, or both.

1. **Kyle Henry (white)** Had a contract with the IRS to receive up to one million dollars, and had a contract with the U.S. Attorneys office to receive 25% of all they seize, and he went in the witness protection program
2. **Anna Grazette (David Wallace's Mother):** She sold and stored drugs, witness to her son commit murder, in witness program. Also received Statutory immunity letter stating that testimony at trial could not be used against her. Judge Vining
3. **Kelvin King:** sentenced to 17 years and 8 months after pleading guilty before Judge Vining. Government recommended sentence reduction because of his testimony at trial.
4. **Antonio Moses:** Serving 90 months after plea agreement and rule 35, and government said it would recommend additional sentence reduction for testimony at trial.
5. **Sims Jinks:** Pled Guilty before Judge Vining, facing life government filed a rule 35, and agreed to just prosecute him on count # 1, and forget about counts # 7, 13, 14, 15, 20, and 21.
6. **David Wallace (Anna Grazette, mother).** Pled guilty to Count # 1 before Judge Vining, played "Supervisory role". Murdered Bruce Low at his mother's house. Government filed 5K-1 and rule 35, and in the witness protection program. Government will not prosecute the murder, or counts # 10, 12, 13, 16, 17, and 25.
7. **Ladaris Patrick:** Pled guilty before Judge Vining, facing life. Government filed a 5K-1 and rule 35, and he too will be in the witness program.
8. **Tryia Ekwensi:** Pled guilty to 1,700 keys of cocaine and 3 keys of heroin. Government filed a rule 5K-1 for "Substantial assistance"
9. **Keith Bass:** Conspiracy to 15 keys of crack, 2 firearm counts, and possession. Government filed a 5K-1 and rule 35.
10. **Willie Baines:** Sentenced to 12½ years and cooperated and government filed a rule 35 and got sentenced reduced to 7 years. In return for his testimony at trial, the government agreed to make a recommendation the Director Immigration and Naturalization Service in Atlanta that he not be deported to the Bahamas when he complete his sentence. The government further agreed to request that the Immigration and Naturalization Service lift the detainer on Willie Baines, so that when the bureau of prisons, when under their regulations he may become eligible for furlough, the detainer will not prevent him from receiving a furlough.
11. **Juan Hernandez:** Serving 206 and 120 months consecutive. government agreed to file a rule 35 for sentence reduction.
12. **Joel Peavey:** Facing life, Pled guilty before Judge Vining to count # 1. Government agreed to file rule 35 and 5K-1 and would not

prosecute him on counts # 13 and 38.

13. **Larry Strong:** Pled guilty to 500 keys of cocaine and facing 29 to life and government filed a rule 35.
14. **Joe Harper:** Sentenced by Judge Vining to 87 months after government filed rule 35. Government agreed to recommend additional sentence reduction for his testimony at trial.
15. **Roy McCullums:** Pled guilty and sentenced to 240 months, Also accessory to two murders. Government filed a rule 35 for sentence reduction.
16. **Donald Williams:** Had three left to serve on sentence in State prison. Government agreed to write the State Board of Pardons and parole to advise them of his cooperation, and to also advise the District Attorney in Miskogee County of his cooperation.
17. **Andre Dallas:** Serving 322 months and government filed a rule 35.

In this case, the government has, quite simply, purchased the testimony of the above "17 WITNESSES" through promise of leniency, and in one case, a million dollars. Each witness, therefore, has every reason to fabricate, falsify or exaggerate his testimony in an attempt to curry favor with the government. That the respective plea agreement prohibit false testimony is of no assistance, as the defendant will fashion his testimony in such a way that it will not be false, but nor will it be truthful.

[see] U.S. v. Oslet Farnklin Lowery, Jr., No. 97-368-CR-ZLOCH.

In each of the plea agreements before this court, the executive branch promised to advise the sentencing court of the nature and extent of the defendant's cooperation. In addition, the executive Branch promised that it "may" file a downward departure or reduction in sentence if it finds the defendant's assistance to be substantial. It is difficult to imagine something of greater subjective value to a defendant facing incarceration than the promise of a lesser sentence. Therefore, the court finds that the promise made by the executive branch to co-Defendant's clearly involve a "thing of value".

George and Virginia High adopts in its entirety the reasoning of the Singleton Court, United States v. Singleton 144 F.3d 1343 (10th Cir. 1998). George and Virginia High, adopts in its entirety the opinion of U.S. v. Oslet Franklin Lowery, Jr., No. 97-368-CR-zloch.

15. **COMPLETE MISCARRIAGE OF JUSTICE:** The Constitutional rights of George and Virginia High, was violated on numerous occasions, and the government committed "repetitive, flagrant, and longstanding" misconduct in this case, and there was " Serious prosecutorial misconduct" which prejudiced George and Virginia High. The prosecutor withheld volumes of exculpatory evidence, and allowed perjured testimony to stand uncorrected before the grand jury and the trial jury on numerous occasions. The government allowed its cooperating witness (Kyle Henry)

to take an unusual amount of control of the sting operation. This is a situation in which the conduct of law enforcement agents and the prosecutor was so "outrageous and atrocious", that due process principles should have barred the government from evoking judicial process to obtain a conviction. The government, prosecutor, and our defense attorneys, all "conspired" to frame George and Virginin High, because we would not barter, capitulate, or negotiate, and refused to join the aforementioned "infamous 17". The prosecutor and our defense attorneys even mislead this Honorable Apellate Court to such an extent, as to pepertrate a fraud on this Court.

16. INEFFECTIVE ASSISTANCE OF COUNSELS: Bill Morrison & C. Michael Abbott.
[see] Strickland v. Washington 466 US 668, 80 L.Ed 2d 674, 104 S.Ct 2052.

C. Michael Abbott Represented Virginia High, but I maintain and reserve the right to bring charges against him for the following reasons:

1. I gave Virginia the \$5,000 to pay him up-front.
2. He was present at my first indictment on Jyly 1992.
3. I was present at every visit to his office until after 3rd indictmen
4. We were both at his office for the polygraph and I paid the \$1,000.
5. He called me on my car phone and pager w/message for Virginia.
6. Michael Abbott, Bill Morrison, Virginia, and Myself were all present when I discussed the issue of my right having been restored, the false firearm charges, the Illegal search and seizure ath office and our home.

IN CONCLUSION: George & Virginia High, earnestly and humbly implore This Court to grant the motion to recall the mandate in the interest of justice. We ask that this Court will be ever mindful of the fact our trial was a "farce" and it was "so grossly shocking and so out-rageous as to violate the universal sense of Justice". The above mentio issues were not intended to be an Appeal argument, but to simply raise sufficient issues to warrant a recall of the mandate, and simultaneous issue a new mandate reaffirming our prior affirmance of the judgement of conviction and direct criminal appeal.

I declare under the penelty of perjury that the foregoing is true and correct. Exrecuted on September 7, 1998


Signature of Movant

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