

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DEC 17 1998

LUTHER D. THOMAS, Clerk
By: *[Signature]* Deputy Clerk

George W. High, Sr. &
Virginia C. High

Movants

v.

UNITED STATES OF AMERICA

* DC DKT NO. 1:92-00182 1-cr-4
* DC DKT NO. 1:92-00182 1-cr-5
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NOTICE OF MOTION FOR NEW TRIAL AND RELEASE ON BAIL--
NEWLY DISCOVERED EVIDENCE

PLEASE TAKE NOTICE that upon the annexed affidavit of George W. High, Sr. and Notice of motion, statement of facts, exhibits, and all papers in the action captioned United States of America v. George W. High, Sr., and Virginia C. High, and on all pleadings and proceedings had herein, a motion will be made at a Criminal Term of the United States District Court for the Northern District of Georgia at the United States Courthouse, 75 Spring Street, S.W. Atlanta, Ga. 30303, on _____ at _____, or soon thereafter for an order:

1. To set aside the verdicts of guilty returned against the defendants on October 13, 1993, and for an order of the entry of judgement of acquittal of any/all offenses charged in the indictment against George W. High, Sr, and Virginia C. High, in accordance with the motion and supplementary motions for judgement of acquittal made by the defendants at the close of all the evidence.
2. In the alternative, the defendants will move that this Court set aside the verdicts of guilty returned against them on October 13, 1993, and grant each of both of them a new trial upon the grounds of newly discovered evidence.
3. Granting George W. High, Sr., and Virginia C. High release on bail pending the hearing and determination of said motion.
4. For such other and futher relief as to the Court may seem just and proper in the premises

Respectfully submitted,

Dated: Dec. 13, 1998

[Signature]
George W. High, Sr.

AFFADAVIT

In late September of 1990, IRS investigator Shelia Whipple called Kyle Henry and made an appointment to meet him over lunch to discuss a form 8300...Kyle Henry started in the car business in 1984, and became a salesman sometimes thereafter, and in 1987 he started working for Bambi leasing as a sub-contractor with his own clients, and subsequently began to sell high dollar cars, e.g. Mercedes Benz, Porsches, Range Rovers and such. Shortly thereafter Kyle Henry left Bambi Leasing and started Brokering on his own, and began to attract drug clients and doing a number of "all cash deals". In early 1990 Kyle met Ladaris Patrick and in a short period of time sold Patrick 3 cars for all cash. Kyle said under oath that he knew that Patrick was a drug dealer at the second sale. Kyle said that he had done 8 other all cash deals before meeting Patrick.

On September 26, 1990, Shelia Whipple met Kyle at the Paces Deli (cor. Peaces Ferry and Atlanta Rd.). Shelia Whipple is white and Kyle Henry is white, and she met a total stranger alone, with no weapon and did not read him his rights. Shelia Whipple said that the meeting lasted about 45 minutes and she did not feel that he had violated the law (under oath). She said that she could not remember having lunch, but she did prepare the form 8300. She also said under oath that she did not inquire extensively about his background or how long he had been in the car business, and she said that she did not go back to "84", but she did ask about his leaving Bambi and brokering on his own. She was asked if Kyle had told her that he had done 8 other "all cash" deals, and she said that she did not ask him about other cash transactions. Ms. Whipple said that Kyle said that he was not familiar with the 8300 forms and she believed him. She was asked if she knew that the transaction that she was investigating had to do with drug proceeds, and she said yes.

Kyle said that he knew that Patrick was a drug dealer, and that he also visited him in Memphis and they attended sporting events together. Kyle said that he also had other drug clients. Kyle said that he sold a Mercedes for Patrick and recieved a check for \$80,000, and he assisted Patrick in getting a number of smaller cashier checks. While on the witness stand, Kyle said that he and "Shelia" had lunch on their first meeting but he could not remember who paid for it.

Ms. Whipple asked Kyle Henry to be an undercover agent and he agreed, and she told him to contact her whenever he was contacted by any of the certain people (black). Kyle was later provided with a paid apartment, including utilities, and it was wired for sound. Kyle began recording selective calls and took an unusual amount of control of the sting operation.

On May 19, 1991, IRS agent Trism. Lingam and her group manager Don Merz went to Fort Richie, Maryland Army base to talk to Sgt. Robert about a suspicious form 8300 transaction, unannounced and armed, and they read him his rights first. Robert Ward is black, and Tris Lingam is white, and I just assume that Don Merz is white also.

AFFADAVIT

In August/Septembet of 1991 (or thereabouts), IRS Agent David Jones just just walked in the office of High, Realty, INC. at 6118-D Covington and asked to see Mr. or Mrs. High, so he spoke with Eric High until Virginia came out to see him. When Virginia came out to see him, he identified himself and said that he needed to get some information pertaining to a client. Virginia said that she would not be able to give him the information, but he could chech with me. I asked him if this was about any tax investigation of the person?? He said no, and he had been instructed by the person that we would have certain records that he needed. I told him that I could not release any information about any person without their consent. I called the person and got no answer, and tried to page them and they did not call back. I told him that I would gladly give him the information after I get their permission, and he said that he would check back with us the next day or drop by because he would be in the area. The client called and said that it was O.K. to give him the information, and it was about some tax matter. David Jones came back the next day and began questioning Virginia about our record keeping, and how we kept tract when people paid rent, or other monies owed. Virginia asked him if he was investigating us and he assured her that we were not under investigation. She gave him the information and he left. Sometimes later Virginia and I returned to the office from an appointment and David Jones was in the office talking to Eric High. He spoke and asked to speak with one of us, and Virginia said that she had calls to return and an appointment. I invited him to my office and asked him why he had not called and made an appointment and he said that he was just in the area and dropped by. David Jones said that that he understood that I had sold the client some lots in Southwest Atlanta, and he also inquired about a second mortgage that I held on property on Memorial Dr. I asked him "point-blank" if he was investigating us because it seemed like he was more interested in our business than the clients. He again assured me that he was not investigating myself, my Wife, of our office, and he said that if he was investi-gating us he would have to inform us of such. He told me that he needed some addational information, and I told him to put everything in writing that he wanted so I could pass it on to our client. I could see that he was not at all please with handling things in that manner, and he said that he'll be back in touch and he left.

On October 17, 1991 at about 9:00 A.M., Virginia and I were backing out of our rear entry garage when a car came around to the back of our house very fast and blocked us about $\frac{1}{2}$ way out of the garage, and two men exited the car and came to either side of our car and motion for us to lower our windows and we com,plied. They identified themselves and said they wanted to talk to us. I told them that we were on our way to a very important meeting and would meet with them later. They agreed and gave us their cards and ask us to call them when we returned. Virginia made mention of the fact that they both had guns because their coats were open and they were leaning down talking to us in the car.

AFFADAVIT

We returned around 11-12:00 noon and called them and they were there in 15 minuets and drove around to the back of the house again and came inside the screened porch to the back door. I invited them in and we were seaten in the breakfast room. Virginia asked them if they were still wearing their guns, and agt. Silinski said yes, and that it was a policy that they always ware firearms. Agt. Silinski was accompanied agt. Michael Scamid, and they were both white. Agt. Silinski said that he wasted to ask us some questions, but first he needed to read us our rights which he proceeded to do, and after-which he began to ask us nomerous questions. He asked us about our taxes, cash on hand, gambling, and if we borrowed money from anyone? Some questions we answered and some we did not, because my posture was that: When two armed white men invade our home unannounced and read us our rights...well after about 2 hours of a lot of questions and a few answeres, Agt. Silinski left us a list of items he wanted us to get from him. Virginia was taking notes while he was talking.

In retrospect I now, on behalf of George and Virginia make the following charges: U.S.C.A. Const. Amend. 9, and 18 U.S.C.A. § 242 Deprivation of rights under color of law. The facts are as followed.

Shelia Whipple was very "Courteous" to Kyle Henry because he was "white", and she called him and made an appointment over dinner, and she obviously did not ware a firearm, and did not read him his his rights, and they had a "chummie meal". Why did she not go to his home unannounced, or his place of business armed, because after all Kyle Henry had sold 11 cars to known drug dealers for "cash" prior to meeting with Shelia Whipple.

Because Sgt. Robert ward was black Tris Lingam and Don Merz went to his job unbeknown to him and they were armed and read him his rights, and he had only sold 5-6 cars to people he did'nt know was drug dealers.

William Silinski and Michael Scamid drove around to the back of the home of George and Virginia High, armed and came to the back door, and read us our rights. I did not find it at all suprising that they came to the back door armed, because I was born in Atlanta in 1939, and it always has/is a "custom" that white law enforcement agents always go to the back door because blacks always run out the back when they see white policemans coming to their house.

I bring those charges against William Silinski, Michael Scamid, Tris M. Lingam, Don Merz, and Shelia Whipple. Also Selective Prosecution.

Within a day or two of the "armed invasion", Virginia and I was in the office and I was at the fax or copy machine and she said "George" look whos coming across the parking lot, and it was David Jones. He came in and spoke and said that he had been very busy but he had finally got around to getting the list that we had requested. just Virginia and I was in the office, and we told him about Agt. Silinsky and another agt. came by the house and read us our rights and questioned us abd asked us to get a list of items for him. I asked him if he knew agt. Silinski, and he said that he could not place him. I asked him if he was working with agt. Silinski and he said no. I reminded him that he had assured us that we were not the subject any investigation, and he again said that he was not investigating us.

AFFIDAVIT

He asked me if this agent whats-his-name specified any properties and I said yes, but 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 that he could not place him. I looked over the list of items that he wanted, and I had already asked the owner about the properties in question, so I gave him most of what he wanted, but some of the things we did not have in file, so we had to get them from the bank, and he had to make another trip after Virginia called him at a later date.

Within 2 weeks or so, Agt. Silinski called and asked about the items that he had requested and Virginia told him that Agt. David Jones had got some of the things that he wanted, and he asked who was David Jones? Virginia told him that he was an IRS agt. and had been coming around about a couple of months asking about a client. Agt. Silinski said that he was going out of town for about two weeks and would get back with her. In early December we came back from an appointment and the duty-agent said that a white man came by and asked to see Mr. or Mrs. High, and she said they were not in, and if he would like to leave a card or a message and he said no. The agent described agt. Silinski to a "T". About 2 weeks later Agt. Silinski 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 were having a Christmas Party, and he said that he would check back with us after Christmas.

When we came back to the office after New Years (first week), the Investigator from the Georgia Real Estate Commission came in and gave me a copy of a ruling informing me that the license of Highs Realty, Inc., and George W. High, Sr. was Revoked, effective January 8, 1992, and that we were to cease doing business immediately, remove all real estate signs, cancell all listings, inform all agents to transfer and/or send their licenses to the Real Estate Commission. We ceased all operations in late January of 1992 and Virginia High transferred her license to Real Estate Portfolio, who was located on Snapfinger woods dr. The Georgia Real Estate Commission revoked the license of High's Realty, Inc., and George W. High, Sr. because: On February 8, 1960 High was charged in a criminal information in the District Ct., Fourth Judicial District, State of Colorado, with with the criminal offense of aggravated robbery and sentenced to not less than five years or more than eight. High was also charged with the offense of burglary and sentenced to imprisonment for not less than two years nor more than three. The sentences was ordered to be served concurrently. I suppose they too chose to ignore the fact that my rights had been restored in 1962, just as the government did. I asked the investigator where he got his information from and he said "I have my sources". They too said that I lied on the Application for the brokers licenses when I said that I was not a convicted felon, and so did Allen moye.

AFFIDAVIT

Agt. Silinski paged one day and I returned the page, and he asked me again about those 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. He said that he was not working on a cse with any David Jones, and he said: MR. High, are you or Mrs. High going to get the things that I requested and I said "No". Virginia was not with me at the time, and I later told her that we needed to get a lawyer.

Virginia or I called Att. Robert Burroughs and he referred us to Att. C. Michael Abbott. Virginia Called Michael Abbott, and he told her to come down and bring \$5,000.00. We went to his office and explained the situation and he said that he knew Agt. Silinski and he would call him right now, and Virginia gave him his card. Att. Abbott called him and asked him is Virginia was the "target" of any investigation, and he said "I can't say". Att. Abbott told Virginia to give him \$5,000.00 and she proceeded to give him a check, and he said that he wanted "Cash", and she told him that she would cash the check for him, which she did. Att. Abbott told her that he would get back with Agt. Silinski and that agt. Silinsky should not call her again and if he did to let him know. Agt. Silinsky did not call us again.

In **March/April 1992**, Alex Turner who had been the FBI case agent since 1987 was terminated and Barbara Brown became the case agent. I say with about 99% certainty that the reason for Alex Turner's termination was because Kyle Henry was trying to "press" Alex Turner for some funds one day in his office and Alex Turner gave \$200.00, and Kyle Henry was "insulted" and left in a huff and contacted his "handlers" e.g. Shelia Whipple, Bill Silinski, Allen Moye, Joe D. Whitley and others. They gave Alex Turner the "shaft" because he would not agree to the "Big Dollars" they wanted to give Kyle Henry. Alex Turner was left in charge of the "Garbage detail" along with Charles Boyd and Walter Wison.

On **May 30, 1992**, the government through the FBI compensated Walter Wilson \$300.00. Now Walter Wilson was working for a trash collection company, and, and starting in mid 1990, he was approached about when he pick up the trash at 740 Greenwood, Ln. to bring the trash to Alex Turner (FBI), or Charles Boyd (GBI), would meet him somewhere in the area. Walter Wilson picked up the trash for 2 years, at the residence of David Wallace at 740 Greenwood, Ln..He was paid \$150.00 on 12/7/90 by Alex Turner, and the \$300.00 on **May 30, 1992**. Walter Wilson was black, Charles Boyd was black, and Alex Turner was black. Walter Wilson was picking up the trasn twice a week from 1990 until at least mid 1992, and a "garbage collector" only makes minimum wages. No one told Walter Wilson that on **November 30, 1991** that the David Wallace who's house he had been placing the garbage in special bags, and putting it under the little "scout truck's" bed, had shot Bruce Low in front his mother, Sims Jinks, Gary Roundsville, and another witness, and carried him out on Panola Rd. and then finished him off, and tried to burn him up. Now Bill Silinski, Shelia Whipple, Allen moye, Joe D. Whitley, or others had no probelum with a black person unknowing putting his life in "harms way" for \$450.00.compensation.

AFFIDAVIT

On June 8, 1992, Kyle Henry and his lawyer made a contract with the IRS that could pay him up to a million dollars, and the U.S. Attorneys office made a contract with him to receive 25% of all that they seized e.g. cars, trucks, houses, money and ect. Around that time the IRS (Agent Silinski) begin seizing some properties, and took \$12,000 from Virginia's bank account and "waylaid" an insurance check in the amount of \$15,000.

On June 17, 1992, Virginia and I was in the office of Georgia Home Improvement Co, Inc.. and Eric High and a client was leaving, and when they got to the parking lot they saw Bill Silinski, David Jones, and a black female looking at Virginia's car. David Jones spoke to Eric and asked him where was Mrs. High, and Eric said in the office. David Jones asked Eric to show him the office, and Eric showed him the office, and at that point David Jones and the black female rushed into the office and he (David Jones) said "freeze" and don't nobody move, or something to that effect. He had his hand on his gun and so did the female. The female told Virginia to put her hands on the wall, and she began to search Virginia. She told Virginia to take her rings off and put them on the desk, and she also took a hair comb from Virginia's hair. At that point agt. Silinski came, and he stood in front of my desk and agt. David Jones had been standing at the side of my desk. David Jones and agt. Silinsky was looking around the office and paying close attention to all the file cabinets. Agt. Silinski and the female left together with Virginis handcuffed between them and David Jones kept me covered until they got in the parking lot, and he left. They did not know about that office until they asked Eric because they saw her car in the parking lot. Now a few months earlier at the office of High's Realty, INC.. David Jones could not place agt. Silinski, and said that he was not working on any case with him, and agt. Silinski had also told me on the car phone that: I am not working on a case with any David Jones.

Virginia was indicted that day and we posted a \$100,000 bond and she was released. We went to Michael Abbott's office the next week and he said that the government wanted Virginia to cooperate with them, because they were interested in some people we had sold houses to. We did not understand much about what was going on, and Michael Abbott began to explain what cooperating entailed. Virginia said that she was not pleding guilty to anything, because she had not comitted any crime. Michael Abbott said that he could talk to the prosecutor and get things worked out, and he felt certain that she would not go to prison if she pled guilty. Virginia took a firm and decisive stand and said that she would not cooperate under any circumstances. Michael Abbott told Virginia that if she did not cooperate that there would be another indictment and I would probably included.

On July 9, 1992, just like Michael Abbott said, there was another indictment including Virginia, myself and 3 black males. The prosecutor had turned up the heat. I posted a \$100,000 bond and was released. Virginia and I made application to be appointed lawyers, because that "Faction" had seized some properties, cleaned out Virginias bank account of \$12,000, and seized the \$15,000 insurance check, so they made "certain" that we were not able to hire "real

AFFIDAVIT

attorneys", and I was appointed William Morrison and Virginia was appointed Michael Abbott. We had no idea they were on the "other team".

On July 27, 1992, at about 6:00 A.M. Virginia and I heard knocking on the front and back door, doorbell ringing, and people hollering, open the door, we have a search warrant. I went downstairs and opened the front door, and then opened the back door because there were numerous agents there because I guess agt. Silinski told them that "these are black folks and they will run". All of the 30+ agents were armed. Agt. Silinski was the "leader of the pack", and when he came in he said: Mr. High we have a search warrant, and I want to know where are your guns? I told him and as they started upstairs, I told them that Mrs. High was not dressed, and he told Shelia Whipple and the black female who arrested Virginia to go upstairs to the master bedroom with Mrs. High. Virginia came down later and they instructed she and I to sit in the family room. Terry Sosbee was "snooping" around the family room, and the other agt. started opening doors and they tried a door to the lower level and it was locked, and the agt. asked what was that or whats in there? I said that's the basement, and that Eric High and his wife rented the apartment there, and he called agt. Silinski and he (agt. Silinski) said, Oh! this house has a basement? I told him that the entrance was outside and it was a seperate apartment. He said that he had a search warrant to search the whole house. They kept knocking until Eric opened the door and they "herded" him and his wife upstairs, and told them to stay in the family room. The apartment on the lower level had a seperate entrance, 2 bedrooms, full bath, fireplace, laundry-room, Living/dining room, sink, cabinets, refrigerator, and it was completly furnished. Mancusi v. Defort, 392 U.S. 364, 20 L.Ed.2d, 1154...The forth amendment right does not depend upon a property right in the invaded place, "but upon whether the area was one in which there was a resonable expectation of freedom from govermental intrusion"...Agt. Silinski told me to open the safe in the master beedroom closet or he would take it with them. He also told me that I needed to accompany some agents to the office because they had a search warrant for ther too. Shelia Whipple followed me to the office and when we got there, there was already about 4-5 other agents already there. When I opened the door the search began. FBI agt. Alex Turner was there, but it is obvious that he was not "running the show". I heard Sheila Whipple tell someone that this was the office of High Realty, and I was in the back office and I told her that this was the office of Georgia Home Improvement Co., Inc., and she either did not hear me or ignored me, so I got up from my desk and went to the reception area where she was and asked if she saw the sign on the door saying Georgia Home Improvement Co., and I told her that she could go to the management office and see whos office this is. I told her that High Realty had been out of business over 6 months and had never been at this location. She told me to please have a seat and they knew what they were doing. Around 1:00 Agt. Silinski, the black female who arrested Virginia and others came over and said that they had finished searching the house. He started going thru files and I told him that if the warrant was for High Realty, he was at the wrong place. U.S. v. Turner, 770 F.2d

1508, cert. denied 475 U.S. 1026, There was not only a resonable probability that another premise might be mistankenly be searched,

AFFIDAVIT

but another premis was searched...The evil garded against by the fourth amendment is doubled when the particulairy of the warrant is an erroneous particularity...The appropriate sanction for such disregard of an explicit Constitutional command has long been recognized as suppression of the evidence unconstitutionality obtained. As the officers were reckless in preparing their affidavit, "They are not protected by good faith reliance on the warrant." [see] u.s. v. Leon, 468 U.S. 897 and also U.S. v Collins 830 F.2d 145.

I told agt. Silinski that this was the office Georgia Home Improvement Co., Inc., High-Five, Inc, and Bal, Inc., which Eric High was president., and there was also some files from High's Realty, Inc., because Eric was the accountant and he and Virginia was closing out some files and getting our taxes in order. They took files from all of the cooperations and 3 computers that belonged to George Home Improvement, Inc., High-Five, Inc., and Bal, Inc.. They took all of the check books belonging to all the cooperations, all cancelled checks, all computer disks, stock certificates, personnel files, 30+ cases of files (50-100 per case), address books, appointment books, all business tax returns, all of the tax returns belonging to Eric High's clients. They took the appointment book showing the visits that David Jones made and the list of items that Virginia and I gave him. They also took the list of items that Bill Silinski gave us...They took files dating back to 1971, and they also took the copy or the Real Estate's commission ruling revoking the license of High's Realty, Inc. and George W. High. Sr., so its no way they could say they thought that was High Realty. In retrospect after reading about all the "outrageous and atrocious" acts committed by the IRS BY WAY OF Congressional hearings in 1996 and 97, I am not suprised by how they violated the constitutional, civil rights, and human rights of George and Virginia High, but of course we are black so...

They took all of the 1st and 2nd mortgages that we were holding on various properties, they took all of the leases on the various properties owned by High-Five, Inc. After agt. Silinski and his raiding party left, there was little evidence that Georgia Home Improvement Co, Inc., High-Five, Inc., or Bal, INC., ever existed, and soon thereafter we moved our office to our home.

I went home and asked Virginia what did they take, and she said that the agents made her, Eric, and his wife stay in the family room so they were not able to see what they were taking. Virginia and Eric and his wife said the agts. were taking boxes out the front door, the back door, thru the garage, and they took the items from the basement through the outside entrance. She said that she was trying to do an inventory, but she knew they took all of the credit cards, all address books, all appointment books, all computer disk, another computer belonging to Eric, my briefcase and the firearm. They also said they took nomerous files and records. They took copies of the first indictment, and the second indictment, the \$5,000 check that she had gave and cashed for Michael Abbott. They took numerous items from Eric and his wife apartment Illegally.

Within a few days after the search we went to see Michael Abbott, and he told Virginia that she needed to start cooperating now,

AFFIDAVIT

because now that they seized all of those records and ect. they have more than enough evidence for a conviction. Virginia told him that search was illegal because High's Realty had been out of business over six months and have never been at that location. He said: Mrs. High I was a Assistant United Attorney and prosecutor for a number of years, and I can assure you that they had "probable cause", so forget about the illegal search and seizure. She also told him that they searched Eric and his wife apartment which they rented from us, and they seized a number of items. He told her those issues were losers. She also asked him about filing some claim so she could get the \$12,000 they took from her bank account, and he told her that would not be worth fooling with. He told her that we had no choice but to cooperate. I was present at the meeting.

On August 10, 1992, the court appointed William Morrison as Counsel to represent George High. Sometimes shortly thereafter Bill Morrison called me and told me to come to his office. When I arrived at his office, the first words that fell from his lips were: You need to start cooperating now because the evidence is overwhelming. He told me that he used to be an Assistant United States Attorney and prosecutor, and he used to work with Allen Moye, and he could talk with him and get me a good deal. He said that the prosecutor wanted Virginia and I to come down to his office and go over all of the records and evidence that they seized, and cooperate with him and he could assure me that I would only get a very short sentence at the "camp" in Atlanta, and that Virginia would not go to prison if I made a deal right now. I told Bill "no thanks" and that we were innocent and would not be pleading guilty to anything, and that was my first and final answer on the matter. He told me not to try to play "hardball" because Allen Moye doesn't lose no 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 6 months prior to the search. He told me that that argument "won't hold water" because they had probable cause, and he said let him handle the law, and he reminded that he was a former U.S. prosecutor and assistant United States attorney, and a practicing attorney. He told me that if Virginia and I did not cooperate now that the stakes would get much higher and the deal would not be as nice then. I told Bill that I would not change my mind under any circumstances.

On December 17, 1992 (just like Bill said), after 5 months of rummaging thru the mountain of illegally seized evidence from the residence of George and Virginia High and the "alleged" office of High Realty, the government got the 3rd indictment charging George and Virginia on count # 1, the drug conspiracy. The prosecutor had really "upped the ante", and the United States of America, in the person of Allen Moye had charged with count 3 and 9 (the fire-arm). NOW they certainly knew that those charges were false.

After the third indictment Bill Morrison called me to his office. Upon my arrival he said: George "boy" you ain't got a prayer, and these are some very serious charges, and you and Virginia could go to prison for the rest of y'all's life. Bill told me that the stakes had got higher like he had warned me about. He said that Allen Moye was still willing to make a "sweet deal" which would entail me pled-

AFFIDAVIT

ing guilty and being sentenced to 25 years and to cooperate and to tell everything that I know, and to persuade Virginia to do likewise, and I could get a 5K-1 and a rule 35, and he said maybe, just maybe, (no promises he said), Virginia may not have to go to prison. I told him how David Jones and William Silinski had pulled a "scam" on us, with David Jones talking about Dr. King and the Civil rights movement and how he would not trick me or Mrs. High because we were brothers and sisters, and he came with agt. Silinski and arrested Virginia. Bill Morrison asked me if I kept records of his visits or the items that we gave him, and I told him that they took it all during the search and seizure, and he said it was just our word against David Jones and Bill Silinski and who do I think the jury would believe. I told him again how they searched Georgia Home Improvement Co., Inc., when in fact the warrant was for High Realty. I also told him that they charged me with two false firearm counts because my rights had been restored when I got out of prison in 1962. at that point Bill Morrison became "irate" and I will never forget how he stood up and started hollowing and said: George do you think the FBI, ATF, DEA, IRS, and the U.S. Attorneys office is so "stupid" as to search your house and take a legal firearm and carry it before the grand jury and get a false indictment. Do you think they would be so "incompetent" as to get an affidavit for a search warrant and not check to see whos office it is? He also said that its no way that David Jones and Bill Silinski would have been a part of any wrongdoing, and David Jones would have read you your rights if he was a party to any criminal investigation. I told him that I maintain all of the above e.g. false firearm charges, Illegal search and seizure at the office and the home, false charge to the grand jury, and my rights being violated by David Jones and Bill Silinski. He told me that if any rights had been restored, they only applied to the state of Colorado, and would have no effect on federal law, and with him having been a Assistant United Attorney, federal prosecutor, and my defense lawyer, I assumed he knew what he was talking about. Bill told me to discuss the matter with Virginia, because our main problems were the drug charges. He told me to get back with him after Virginia and I discuss the matter, and maybe we can "cut-a-deal". When I got home I told Virginia how I had been offered a deal to pled guilty and get 25 years and she may not have to go to prison. Virginia said: "aint no way" we will make any deal because we are innocent and if we go to prison "so be it". We never vacillated and remained steadfast until this day.

Attorney called Virginia within a day or two after me seeing Bill Morrison. I went with her but stayed in the restaurant on the mezzanine floor of the building. After the meeting she told me that Michael Abbott said that he had told her 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 dride". He told her that she had no choice but to cooperate because the evidence was "overwhelming", and that when she was found guilty (which she would be), that she would get considerably more time. He told her that if she went to trial she would certainly be found

AFFIDAVIT

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 not to cooperate, and if she listened to me she was going to prison for a very long time, and he told her 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 praying for the best but expecting the worst.

Within a few days Michael Abbott called Virginia with another "trick up his sleeve". He told her that he had a very good idea that could work in our favor, and proceeded to tell her about a polygraph exam and how he may be able to get it entered into evidence to help prove our innocence. Virginia told him that he would discuss it 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 think it over and get back with him. Virginia and I had never taken a polygraph exam and did not know the pros and cons of it, but we agreed that if it could help us, we were for it. Virginia called Michael Abbott and told him that we would take the test and he could set an appointment. He said that the cost would be \$500 each. We went to his office for the test and Bill Morrison was also there. Virginia took the test first and the examiner told her that she failed miserably, and the test proved that she was guilty. I took the test and he said that I was being deceptive, and not at all truthful. At that point the examiner became the interrogator and told me that I could/should help my wife and myself, and that prison is not a nice place. He said that I should make a deal which would assure me of a much lighter sentence. He told me that I should get it all off my chest and confess to everything. He told me how proud my wife would be of me for keeping her out of prison. I told him that I had no confession to make to him or anyone else so he could and should leave me alone.

After the test were over, Bill Morrison, Michael Abbott, and the examiner all had a meeting for for maybe 10-15 minutes, and the examiner left, and Michael Abbott called Virginia and I into his office, and there was just the four of us there, Bill Morrison, Michael Abbott, Virginia and myself. They told us that the test proved that we were guilty so we had no choice but to cooperate. They said that Allen Moyer wanted us to come down to his office and go over all the records that they had seized and tell them everything that they wanted to know, and he (Allen Moyer) would recommend a lesser sentence because the government was very much interested in some of the people we sold houses to. Bill Morrison said that said that the government did not want to put Virginia in prison because they knew she was not a drug dealer. Virginia and I "emphatically" and in no uncertain terms told them that we would not plead guilty and that we were going to trial. Bill Morrison continued to call me about cooperating up until and during trial and up until 1997. Michael Abbott called Virginia up until trial and the last time she called him was July 1997 and he was still talking about her still cooperating and telling her to lie on me.

AFFIDAVIT

Our trial began in September of 1993, and before it was over the government had called 74+ witnesses, and Michael Abbott call none, and Bill Morrison called none. The prosecutor waved the firearm before the jury on at least 4 occasions and he called Terry Sosbee (GBI) to testify, and the dealer who sold me the gun, and the agt. from the (BATF) who testified the firearm. 18 USCA § 242, Deprivation of rights under color of law Whoever, under color of any law, statute, ordinance, regulation, or custom, wilfully subject any inhabitant of any state, territory, or district to the deprivation of any rights, privileges, or immunities secured by the Constitution or laws of the United States...by reason of his color or race...shall be fined...or imprisoned. All of the above named conspirators.

There are at least 40-50 pages relating to the false firearm charges by the prosecutor and others in the trail transcript. Allen Moye, Joe D. Whitley, William Silinski, Shelia Whipple, Barbara Brown, Bill Morrison, Michael Abbott, Judge Vining (9/22/97 § 2255), and others were aware of the Illegal search and seizure and the false firearm charges from day one, or during trial, and/or late 1997.

The criminal indictment 1:92-CR-182, states: THE GRAND JURY CHARGES THAT: COUNT ONE, From a time unknown to the grand jury, but at by in or about 1987, and continuing on or about the date of the return of the indictment, in the Northern Distrinc of Georgia, and aided and abetted by each other...I submit that if there was any conspiracy or aiding and abetting it was in fact by the representatives of the United States of America a/k/a that faction in the in the Northern District of Georgia, who seemingly is operating their own little injustice dept., independently of the U.S. Justice Dept.

George and Virginia High has been the victims of a campaign of Discrimination, Injustice, Threats, Intemidation, Harassment, Unfairness, Partisanism, Unlawfulness, Inexcusability, Prejudice, Unjust conviction, False Imprisonment, Framing, which is Shocking and Deplorable by "Rogue Agents" within the FBI, ATF, DEA, IRS, U.S. Marshall, GBI, Bill Morrison, Michael Abbott, Judge Vining, and the U.S. Attorneys office.

These false charges brought against George and Virginia High by the United States of America are of the most outrageous conduct which transcends all possible bounds of decency so as to be regarded as "atrocious and utterly intolerable in a civilized society".

George and Virginia had a "sham trial" before a Kangaroo Tribunal, which was tantamount to a "Judical Lynching"; deja vu Dred Scott v. Sandford, 60 U.S. (19 How.) 393, 15 L.Ed. 691 (1857) and also Plessey v. Furguston 163 U.S. 537, 41 L.Ed. 256, 16 S.Ct. 1138 (1896)

I declare under the penelty of perjury that the foregoing Affidavit is true and correct and "Prima Facie" evidence.

exercuted on Dec. 13, 1998

George W. High, Sr.
George W. High, Sr.

STATEMENT OF FACTS

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 of this information, "all to no avail" because Bill Morrison and Michael Abbott still insisted that we cooperate in the midst of the government, prosecution, and attorney "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 rights to possess firearms had been restored when they seized my legal firearm during an 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, onknown black female who arrested Virginia, and about 20+ other government agents. 7/27/92

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 Januray 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, Unknown black female who arrested Virginia, and 4-5 other agents.

 4. U. S. Const. Amend. # 5 Indictment was "Fatally defective" and should have been dismissed "with prejudice" for the following reasons.
After 5 months of "rummaging" through a mountain of illegally seized evidence from High's residence and the "alleged" office of High Realty, the government went before the "naive Grand Jury" and hoodwinked and bamboozled them into indicting George and Virginia High on 3rd indictment, and charging them on count # 1 and charging George High on count # 3 and and count # 9 (two false firearm counts), and the government knowingly and willingly futhered lied to the grand jury and said that I was a convicted felon, and that my rights had not been restored, when in fact my rights had been restored in 1962 when I got out of prison.
- 18 usc § 1623 False decloration 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 statement to decive the grand jury into indicting George and Virginia High.

STATEMENT OF FACTS

Twice put in jeopardy of life and limb...I was convicted in 1960, and all my rights were restored, and again convicted in 1993 of false charges.

....Nor shall be compelled to be a witness against himself. Bill Morrison and Michael Abbott Bombarded, Threatened, Intimidated, and Harrassed Virginia and I "day and night", from July of 1992, up until July of 1997, and I have numerous letters that he has written me in prison insisting that I cooperate (Bill Morrison). We pled not guilty at the arraignment and told them in no uncertain terms that we would not cooperate and that we were going to trial.

Angalo v. Caviletti, C.A.N.Y. 1981, 666 F.2d 1. Every person enjoys some measure of protection against being coerced into cooperating with law enforcement authorities by governmental techniques of intimidation and Harrasment, wether this protections derives from liberty interest protected by amen. 5, privacy interest protected by this amen. and amen. # 1, or interest in procedural regularity protected by due process clause of amen. 5.

...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 "Fradulant" conviction.

18 USC § 1622, The prosecutor 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 Grand Jury.

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

From first indictment to trial was 15 months, because because the U.S. Attorneys office and William Silinski, Shelia Whipple, Barbara Brown and others known and unknown needed enough time to frame George and Virginia High on the false indictment and all the Illegally seized evidence. Bill Morrison and Michael Abbott did not insist on a speedy trial because they were in "Collusion" with the government from from day one.

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

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

STATEMENT OF FACTS18 USCA § 1512 (b)(2)(A)(D) Tampering with a witness...

Allen Moye refused to let witness from the Colorado Prison testify that my rights had been restored, and Bill Morrison, Michael Abbott, Joe D. Whitley, William Silinski, Shelia Whipple, Barbara Brown, and others known and unknown conspired with him under 18 USC §§ 2.

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. Whitley, William Morrison, Michael Abbott, William Silinski, Shelia Whipple, Barbara Brown, and others known and unknown.

18 USCA § 1621 Perjury... The following persons comitted perjury at trial: Anna Grazette, Winfred Cornell Jordan, Kelving 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 seized the propeties, \$12,000 from Virginia's bank account, and seized an insurance check in the amount of \$15,000. I was unjustly convicted and impriosned for 13 years and one month on some false firearm charges, of which I certainly feel is "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 cause me to be sentenced to prison for 13 years and one month. JOe D. Whitney, Allen Moye, William Silinski, Shelia Whipple, Barbara Brown, Bill Morrison, Michael Abbott, and others known and unknown.
8. 18 USC 1865 The right to serve on a jury..
THat right was also restored in 1962, and the government knew or should have known when I was falsly charged, Indicted, and convicted of the firearm charges.
9. U.S Const. Amend. # 13 Neither slavery of invouluntary servitude,.. except as a punishment for crimes whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

STATEMENT OF FACTS

George and Virginia High was not duly convicted, and in fact was framed by: JOE D. Whitley, Allen Moye, William Silinski, Shelia Whipple, Barbara Brown, Bill Morrison, Michael Abbott, and others known and unknown.

10. U.S. Const. Amend. # 14. ...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the 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 laws.
- 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 early morning armed, and illegal raid at the residence of George and Virginia High, and it was in fact he who, by his own admission, was assigned to search the family room, and he illegally searched my briefcase and seized the contents e.g. .25 cal. firearm, all credit cards, address and appointment books and other items.
11. 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. [see] U.S. v. Sanders, 844 F.Supp. 1407. I was convicted and sentenced to 60 months.
12. 18 USC § 922 (g)(1) (count 9) Convicted felon on poss. of 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. I was convicted and sentenced to 97 months.
13. Selective Prosecution, U.S v. Armstrong No. 95-157, (5/17/96)
- A selective prosecution claim is not a defense on the merit to the criminal charges 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 a threshold presentation of evidence tending to show that similar situated person of another race was not prosecuted (Kyle Henry, white).

STATEMENT OF FACTS

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

Selectivly prosecuted by: Joe D. Whitley, Allen Moye, William Silinski, Shelia Whipple, Barbara Brown, Kyle Henry, Bill Morrison, Michael Abbott and others known and unknown.

14. TITLE 18 USC, 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.

All of the following persons testified at trial. Some of the the below persons went before the Grand Jury also.

1. Kyle Henry (white). Had contrace with the IRS to recieve up to one million dollars, and had a contract with the U. S. Attorneys office to get 25% of all they seized, and he also went in the witness protection after testifying.
2. Anna Grazette (David Wallace's mother). She sold and stored drugs at her home, and and witnessed her son David Wallace murder Bruce Low in her home. SHE recieved a Statory Immunity letter from the prosecutor stating that nothing she said at trial could be used against her. She also went in the witness program. Judge Vining
3. David Wallace (Anna Grazette's Son). Facing life and pled guilty before Judge Vining to count # 1. Played Supervisory role. He murders Bruce Low at his mother's house. Govern-ment filed a 5K-1 and rule 35, and he too will go in the witness protection program, and the government would not prosecute him for the murder, or counts # 10, 12, 13, 16, 17, and count # 25.
4. Antonio Moses: Serving 90 months after plea agreement and rule 35, and the government said that it would recommend additional sentence reduction for his testimony at trial.
5. Tryia Ekwensi: Facing Life, and pled guilty to 1,700 keys ofcocaine and 3 keys of heroin. Government filed a rule 5K-1 for "Substancial Assistance".
6. Keith bass: Conspiracy to 15 keys of crack and two firearm counts and possession. Government filed a 5K-1 and rule 33. Sentenced to 120 months.

STATEMENT OF FACTS

7. Kelvin King: Sentenced to 17 years and 8 months after pleading guilty before Judge Vining. Government recommended sentence reduction by virtue of his testimony at trial.
8. Willie Baines: Sentenced to 12½ years and cooperated and the government filed a rule 35 and sentence was reduced to 7 years. In return for his testimony at trial, the government agreed to make a recommendation to the director of Immigration and Naturalization Service in Atlanta that he nor be deported to the Bahamas when he completes his sentence. The government futhered agreed to request that the Immigration and Naturalization Service lift the detainer in 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 recieving a furlough.
9. Juan Hernandez: Serving 206 and 120 months consecutively. Government agreed to file a rule 35 for sentence reductio.
10. Sime Jinks: Facing Life and pled guilty before Judge Vining. Government filed rule 35 and agreed to just prosecute him on count # 1, and forget about counts # 7, 13, 14, 15, 20 and 21. The government would also not prosecute him on the pending assult charge (shooting), or the murder.
11. Larry Strong: Pled guilty to 500 keys of cacaine and facing 29 years to life, and government filed a rule 35.
12. Joe Harper: Sentenced to 87 months by Judge Vining after the government filed a rule 35. Government agreed to recommend additional sentence reduction for his testimony at trial.
13. Roy McCullums: Pled guilty and sentenced to 240 months, also acessory to two murders. Government filed a rule 35 for sentence reduction.
14. Andre Dallas: Serving 322 months and government filed rule 35.
15. Ladaris Patrick: Facing Life, and pled guilty before Judge Vining. Government filed a rule 35 and a 5K-1, and he too will be in the witness protection program.
16. Donald Williams: Had 3 years left to serve on sentence in State prison. Government agreed to write the State Board of Pordons and Parole to advise them of his cooperation, and to also advise the District Attorney in Moskogee County, Georgia of his cooperation.
17. Joel Peavey: Facing Life and pled guilty before Judge Vining to count # 1. Government filed a rule 35 and 5K-1 and would not prosecute him on counts # 13 1nd 38.

In this case, the government has, quite simply, purchased the testimony of the above "17 WITNESSES" THROUGH PROMISES OF LENIENCY, and in one case (Kyle Henry) a million dollard. Each witness,

STATEMENT OF FACTS

therefore, has every reason to fabricate, falsify or exaggerate their testimony in order to "cure" favor with the government. That the prospective plea agreement prohibits false testimony is of no assistance, as the defendant will fashion his testimony in such a way that it will not be false, but it will not be truthful.

[see] U.S. v. Lowery, No. 97-368, Southern District of Florida

...Where a witness, either for the Executive Branch or the defense, knows that a promise of lenience or other thing of value is inextricably intertwined with its testimony, the incentive to lie and to cure favor is tremendous. Thus, application of section 201(c)(2) to all persons, including the prosecution, would not work obvious absurdity, but would clearly preserve the integrity of the judicial process.

It follows then, that section 201(c)(2) undoubtedly is intended to prevent any injury or wrong; specifically, the perversion of the judicial process. Thus, Nardon instructs the Executive Branch is included in the terms of section 201(c)(2). Nardon, 302 U.S. at 384.

Moreover, the Constitutional form of Government which has guided this country for over two hundred and twenty years demands that the Executive Branch be subject to the laws enacted by the United States Congress. At last glance, the United States was a democracy - not a monarchy. Thus, neither the United States Attorney, the Department of Justice nor the Executive Branch is above the law, but is subject to it in the same manner and to the same degree as an ordinary citizen. That is, the Executive Branch may not pick or choose which laws it will follow and which it will disregard. Accordingly, the Court finds that the Executive Branch and its agents are unquestionably subject to the provisions of section 201(c)(2).

George W. and Virginia High adopts in its entirety the opinion of U.S. v. Lowery, No. 97-368, and George W. and Virginia High adopts in its entirety the reasoning of the Singleton Court, U. S. v Singleton 144 F.3d 1343 (10th Cir.(1988)).

15. THE COURT ERRED When it denied Virginia High's motion for severance.
16. THE COURT ERRED When it denied Virginia High's motion to suppress evidence from search and seizure.
17. THE COURT ERRED When it denied George High's motion for severance.
18. THE COURT ERRED When it denied George High's motion to suppress evidence from search and seizure.

STATEMENT OF FACTS

19. THE COURT ERRED When it denied George High's motion to dismiss counts 3 and nine of the indictment.
20. THE COURT ERRED In denying George and Virginia High's motion for sev. since the relationship of the defendants and and the nature of the case prejudiced the rights of the defendants in a joint trial.
21. THE COURT ERRED in denying George High's motion to reveal the identity of the informants.
22. THE COURT ERRED When it granted the government's motion to declare the case complex [106-1] and to exclude speedy trial time...[entry date 10/12/93]
23. THE COURT ERRED in allowing stipulation regarding government exhibit # 34 (felony conviction) entered into evidence [entry date 10/7/93).
24. THE COURT ERRED when it denied the defendants verbal motion for judgement of acquittal, [entry date 10/12/93]
25. THE COURT ERRED In permitting the prosecutor to ask leading questions of his own witness throughout the trial.
26. THE COURT ERRED when it recommended that motion to sever be denied as to George High [entry date 9/21/93]
27. THE COURT ERRED When it appointed William Morrison to represent George High, and C. Michael Abbott to represent Virginia C. High.
28. THE COURT ERRED when it gave the charge to the jury, [see] vol 13, page 152 trial transcript, lines 14 thru 17 "quote"...I instruct you that the crime of aggravated robbery is a crime in the state of Colorado punishable by imprisonment for a term exceeding one year as the term is used or that phrase is used in these instructions. end quote.

The admission of the evidence of the nature of the defendants prior conviction substantially influenced the verdicts in this case, and it constituted "reversible error",

STATEMENT OF FACTS

29. THE COURT ERRED on 10/6/93 in denying George High's motion for judgement of acquittal under rule 29 of Fed. rl. Crim. Proced.
30. THE COURT ERRED in denying George High's double jeopardy claim based on the evidence in the case (10/6/93).
31. THE COURT ERRED on 10/6/93 when the renewed motion to sever not only the gun counts, but also to sever George High based on what the government laid out as its position on the rule 16 matter concerning his (George High) statement. was denied.
32. THE COURT ERRED in denying the motions of George and Virginia High for a judgement of acquittal made at the conclusion of the governments evidence.
33. THE COURT ERRED in refusing to sustain the defendant's motion for a judgement of acquittal made at the conclusion of the government's evidence.
34. THE COURT ERRED in denying the defendant's motion for acquittal made at the conclusion of the government's case and at the conclusion of the total case, as a result of which excessive and unnecessary issues were submitted to the jury, resulting in their confusion and resulting in the Defendant's not having a fair trial even on those counts, if any, on which there was sufficient evidence to go to the jury.
35. THE COURT ERRED on 8/26/92 when it transferred my case from Judge Horace Ward to Judge Vining.
36. THE COURT ERRED when it did not severe or Bifurcate the firearm counts (#3 & 9) to avoid unfair prejudice to the other defendants. In the same vain, the Court's charge on this point highlighted the fact of conviction, escalating the prejudice to George and Virginia High. George High futher asserts that because the government only added the false firearm counts solely to buttress its weak case on the other counts, the convictions of George and Virginia High on all counts was tainted by "retroactive misjoinder".

STATEMENT OF FACTS

37. THE COURT ERRED under Fed. Rules Cr. Proc. Rule 8(b), 18 U.S.C.A. While rule 8(b) should be construed in favor of joinder, it is also true that failure to meet requirements of this rule constitutes misjoinder as a matter of law.
38. THE COURT ERRED under Fed. Rules Cr. Proc. Rules 8(b), 14, 18 U.S.C.A. Question of prejudice is properly raised under rule 14 only if joinder of multiple defendants is proper under rule 8(b) and, if multiple defendants are improperly joined under rule 8(b) because they are charged with offenses that are unrelated, then they are to be considered as prejudiced by that fact and the trial judge has no discretion on question of severance, but it is mandatory.
39. THE COURT ERRED under U.S.C.A. Const. Amend. 4; Fed. Rules Cr. Proc. Rules 52, 18 U.S.C.A. Where evidence seized in violation of fourth amendment rights of defendant is erroneously admitted, any conviction of that defendant which might have been influenced by admission of that evidence must be reversed and only if erroneously admitted evidence could not have contributed to conviction can that error be found harmless beyond a reasonable doubt.
40. THE COURT ERRED because of the multiplicity of sentences, e.g. possession of a firearm by a convicted felon, and false statement in acquiring a firearm, based on possession of same weapon violated double jeopardy.
41. THE COURT ERRED because multipliciously sentenced are not "concurrent" if monetary assessments are imposed on separate counts of conviction and thus the "concurrent sentence" doctrine would not preclude defendant from raising issue of multiplicity of sentences for first time on appeal. 18 U.S.C.A. § 3013.
42. THE COURT ERRED in denying George High's motion for judgment of acquittal notwithstanding the verdict, or in the alternative for a new trial.
43. THE COURT ERRED when it sentenced George High to 97 months on counts 1 & 9 and 60 months on counts 3 & 13 to run concurrent and \$200.00 special assessment.

STATEMENT OF FACTS

44. THE COURT ERRED on 2/18/94 when it denied George High's motion to remain on bond pending appeal.
45. THE COURT ERRED when it denied Virginia High's motion for judgement for acquittal notwithstanding the verdict, or in the alternative for a new trial.
46. THE COURT ERRED when it sentenced Virginia on counts 1, 13, 16, 17, 18, 19, 20, 21, 22, 23, and 24.
47. THE COURT ERRED in denying Virginia High's motion to remain on bond pending appeal.
49. THE COURT ERRED when it issued the final judgement of forfeiture under motion by United States of America as to George and Virginia High.
50. THE COURT ERRED when it allowed Terry Sosbee to testify about the firearm in violations of U.S.C.A. Const. Amend # 2, 4, 5 (due process), 6, and # 14. and it amounted to a "Complete miscarriage of Justice".
51. THE COURT ERRED when it allowed Marty Spiegelman to testify about my "legal" purchase of the firearm in violations of U.S.C.A. Const. Amend. # 2, 4, 5, 6, and 14, and it amounted to a "Complete miscarriage of justice".
52. THE COURT ERRED when it allowed Luis Valez (BATF) to testify about firing my fireare after having it given to him by Bill Silinski (IRS agent), in violation of U.S.C.A. Const. Amend. # 2,4,5, qnd # 6. It rose to the level of being a "Complete miscarriage of Justice".
53. THE COURT ERRED when it allowed the government (prosecutor) to wave my legal firearm before the jury on at least 4 occasions, and they carried it in the jury room, which was "Serious prosecutorial misconduct".
54. THE COURT ERRED when it allowed the government to enter the briefcase into evidence (exhibit 191), after it had been Illegally searched with no warrant, and it did in fact contain the firearm in question.

STATEMENT OF FACTS55. THE COURT ERRED

on 10/6/93 (trial transcript vol. 11, page 9, lines 21-25). The following discussion was had between court and counsel at the bench, out of the hearing of the jury.

The Court: If I have a bruton probelum down the road I'll sever out George High probably. I probably won't sever sever out Virginia High. George said please convict me of the gun and let me go on the rest. We can try him on that pretty quick. cont. on page 10 lines 1-6. Mr. Moyer:

I understand. I don't want my cross-examination--
The Court: I'm not going to do it.

Mr. Moyer: I don't want to have to retry George High.

The Court: I am not going to worry about that. I doubt seriously we would have to retry anybody.

The court by its own admission states "emphatically" and in no uncertain terms that that all the other charges are without merit, but we can convict him on the false gun charges. This too was newly discovered evidence, because I was not a party to the conversation and was not aware of it until I got copies of the Transcript in December 1994.

56. THE COURT ERRED

when it allowed the prosecutor make a "knowingly" false and misleading statement to the jury in his closing argument: Vol. 13 page 97, lines 10-15.

Mr. Moyer: And I submit to you, ladies and Gentlemen, there's not one true verdict with regard to count 3 and 9, and that is that Mr. High is guilty as charged. He lied to the gun dealer about his conviction. It does not matter how old the conviction is, and he was forbidden to possess that firearm because of that conviction.

...The purpose in Brady is not to punish a wrongdoing prosecutor, but rather to assure that the defendant was not convicted without due process of law. As the Supreme Court stated in Brady, "Suppression by the prosecutor of evidence favorable to the accused...violates due process where the evidence is material either to guilt or to punishment, irrespective to the good faith or bad faith of the prosecuton", Brady, 373 U.S., 83 S. Ct.

57. THE COURT ERRED

when it allowed Bill Silinski, Shelia Whipple, and Barbara Brown to sit at the first table along with the prosecutor throughout the trial, closest to the jury, and then Bill Silinski and Shelia Whipple testified toward the end of the trial. That was a "ploy" and one of the many "shenanigans" that Allen Moyer implemented with "impunity" during the investigation and the course of the trial.

STATEMENT OF FACTS

58. THE COURT ERRED when it allowed Bill Silinski, Shelia Whipple and Barbra Brown along with Allen Moye, to sit before the jury and take notes while the aforementioned 17 witness who "cut deals" testified under oath, to attest to the fact that their testimony was worthy of the deals they had promised under the plea agreements. It is a matter of record that Bill Silinski, Shelia Whipple, Barbara Brown and Allen Moye had de-briefed and made deals with most if not all of the witnessed.
59. THE COURT ERRED and it is a "foregone conclusion" that the Honorable Robert L. Vining, Jr., who presided over the trial, did in fact sentenced, accepted guilty pleas, and is slated to try at least 7 of the "infamous 17" (and possibly more). The Judge would certainly be in a unique position to attest to the fact whether their testimony rose to the level of "Substantial Assistance". My personal felling is that: "Judge Vining is incapable of being fair and impartial", and that he had a "conflict of interest", and it was not toward George W. and Virginia C. High.
60. THE COURT ERRED when it allowed the United States Attorney, to file a response to the 28 U.S.C. § 2255 motion filed by Virginia C. High in early August 1997. The United States Attorney, by Kent B. Alexander filed a response on August 12, 1997, and the Court of Appeals did not issue their Mandate until October 15, 1997.
- 28 U.S.C. § 2255 Rule 3(b), states in part that:
 The filing of the motion shall not require said United States Attorney to answer the motion or otherwise move with respect to it unless so ordered by the court. Rule 4(b) (last 3 lines):
 Otherwise, the judge shall order the United States Attorney to file an answer or other pleading within the period of time fixed by the court or to take such other action as the judge deems appropriate.
- Black v. U.S., C.A. 9 (Cal.) 1959, 269 F.2d 38, Cet. Denied 80 S.Ct. 379, 361 U.S. 938, 4 L.Ed 2d 357.
- A motion to vacate, set aside or correct sentence cannot be entertained if there is a pending appeal in good standing, since disposition of the appeal may render the motion unnecessary.
- The signature of Kent B. Alexander does not appear anywhere on the document in question, and it was in fact executed by H. Allen Moye, Assistant U.S. Attorney.

STATEMENT OF FACTS

On July 11, 1997 U.S. Attorney Kent B. Alexander announced that he would be stepping-down as U.S. Attorney, and if I recall correctly, he left on Friday August 15, 1997, 3 days ~~after~~ Allen Moye filed the response. I stand to be corrected, but I sumise that, that was just another of his shenanigans, and an effort to "Slam-Dunk" Virginia High's efforts to obtain justice and freedom.

61. THE COURT ERRED

When it denied George High's 28 U.S.C. § 2255 on September 29, 1997, that I had filed in the district Court on September 22, 1997.

U.S. v. Tindle, 552 F.2d 689 Filing of motion for new trial on grounds of allegedy ineffective assistance of counsel constitutes special circumstance permitting consideration by district court of motion to vacate, set aside or correct sentence, not withstanding pendency of direct appeal. 28 U.S.C.A. § 2255; U.S.C.A. Const. Amend.6.

62. THE COURT ERRED

in retrospect in denying the motion that Judge Vining rescuse himself. [Doc. No. 526].

63. THE COURT ERRED

on February 24, 1998, when it denied George High,s motion for new trial based on newly discovered evidence and for release on bond pending that new trial [Doc. No. 519].

As stated in a letter address to Mr. Luther D. Thomas, Clerk of the court, with copies sent His Honor, Allen Moye, and Bill Morrison, (dated March 8, 1998, That particular motion was was filed along with my § 2255, both dated September 15, 1998, in the same envelope. The § 2255 clearly identified 25+ grounds for relief including (but not limited to): 9 Constitution violations, 2 false firearm charges, fatally defective indictment, Illegally forfeited properties, 4 incidents where the court erred, Milicious prosecution, Abuse its descretion, unjust conviction and imprisonment, ineffective assistance of counsel, Obstruction of justice-witness tampering-Document alteration-Collusion-knowingly withholding impachment and exculpatory evidence, and wilful deprivation of constitutional rights. As stated above at No. 61, the court denied the defendants § 2255 on 9/27/97, and denied the motion for new trial on 2/24/98, which seperated the motions by 6 months and giving the Illusion that George High did not state any factual basis for his motion for a new trial.

STATEMENT OF FACTS

64. THE COURT ERRED on 2/24/98 when it denied Virginia High's request for appointment of counsel, because she had correctly raised the issue of ineffective assistance of counsel on her § 2255 in August of 1997 (however timidly), but the issues that George High raised in his § 2255 [see no. 63, page 14], 5 months prior, should have certainly merited the appointment of counsel for both of us, "in the interest of justice".
65. The indictment was fatally defective because the grand jury which returned the indictment was only presented with Alligations, speculations, rumors, and hearsay information in regard to counts 1, 13, 14, and 15, and the evidence that was before them on counts 3 and 9 was purjured.
66. The United States of America failed to prove by evidence the alligations of the indictment as pled in same.
67. There was and is a fatal variance between the pleading and proof.
68. The verdict is contrary to the weight of the evidence.
69. The proof offered by the United States of America is insufficient in law and is not of such probative force as to amount to proof of guilt beyond a resonable doubt as to each and all of the essential elements of the alleged offenses, particulary as to counts 3 and 9 (the false firearm counts).
70. The verdict of the jury finding George and Virginia High guilty as charged in the indictment is not supported by substancial evidence sufficient to justify such findings.
71. U.S. v. Linton D.C. Nev. (1980) 502 F. Supp. 861. In order to obtain a dismissal of an indictment based on "Serious Prosecutorial misconduct", there must be some prejudice to the accused by vir-ture of the alleged acts of misconduct.
1. Violation of Constitutional rights under Amends. #'s 1, 2, 4, 5, 6, 8, 9, and 13.
 2. Violated U.S. Const. Art. 1, § 2. Cl. 1 Right to vote for Senators.
 3. 18 USC 1865, The right to serve on a jury.
 4. Selective prosecution.
 5. Title 198 USC, Section 201 (c)(2) Whoever-Directly or indir-

STATEMENT OF FACTS

ectly, 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 fines under this title or imprisoned for not more than two years. U.S. v Lowery, No. 97-368 Southern District of Florida ... At last glance, the United States was a democracy and not a monarchy. Thus, nither the United States Attorney, The Department of Justice nor the Executive Branch is above the law, but is subject to it in the same manner ant to the same degree as an ordinary citizen.

72. U.S. V. Mosley 965 F.2d 906 "Outrageous Conduct " George and Virginia High asserts that the government's conduct during its investigation of them was so outrageous that "due process principles" should have absolutely barred the government from involking judicial process to obtain a conviction.

73. INEFFECTIVE ASSISTANCE OF COUNSELS Strickland v. Washington 466 US 668, 80 L. Ed. 2d. 674, 104 S.Ct. 2052 William Morrison and C. Michael Abbott. I think the Court and we agree that this issue is now a "Foregone Conclusion".

A motion for a new trial persuant to Rule 33, Fed.R.Crim.P. is addressed to the sound discretion of the trial judge. Accordingly, The denial of such a motion will be reversed only where it is shown that the ruling was so clearly erroneous as to constitute an abuse of discretion.


In order to prevail on a Rule 33 motion, a defendant must ordinarily show:

1. That the evidence was newly discovered and was unknown to the defendants at the time of trial;
2. That the evidence was material, not merely cumulative or impaching;
3. That it would probably produce an acquittal; and
4. That failure to learn of the evidence was due to no lack of diligenece on the part of the defendants.

An exception exist, however, where it is shown that the government's case included false testimony, and the prosecution knew or should have known of the falsehood. The case holds that in that event a new trial must be held if there was any reasonable likelihood that the false testimony would have effected the judgement of the jury. Moore v. Tangipahoa Parish School Bd. 625 F.2d 33 (1980).

I declare under the penelty of purjury that the foregoing Statement of Facts is true and correct, and to be considered as "Prima Facie" evidence.

exercuted on December 13, 1998


George W. High, Sr.