

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF ILLINOIS

3 UNITED STATES OF AMERICA,)
4)
5 Plaintiff,)
6)
7 vs.)
8)
9 CHRISTOPHER B. TAYLOR,)
10) No. 04-CR-30095-DRH
11 Defendant.) September 16, 2005

12 JURY TRIAL
13 DAY #5
14 CLOSING ARGUMENTS

15 REPORT OF PROCEEDINGS
16 BEFORE THE HONORABLE DAVID R. HERNDON
17 UNITED STATES DISTRICT JUDGE

18 APPEARANCES:

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Proceedings recorded by mechanical stenography,
transcript produced by computer.

1 (Court reconvened.)

2 THE COURT: Mr. Daly?

3 MR. DALY: Thank you, Your Honor.

4 May it please the Court?

5 THE COURT: Mr. Daly.

6 MR. DALY: Defense counsel, and ladies and
7 gentlemen of the jury. I address you now as the component of
8 this trial as the deciders of the facts, and the decision of
9 you will be made based upon the instructions as have just
10 been read to you. That is the law in the case. But you then
11 will weigh the evidence, taking the law in applying the
12 evidence with the instructions as they direct you.

13 You occupy now, as I said when you were
14 selected, one of the noblest aspects of being a citizen in
15 this country that one can perform. You now have before you
16 the task of deciding the charges that are placed against this
17 defendant. And obviously, that's extremely important to him,
18 but I say to you that he's brought all of us here through his
19 actions, not your actions, not the agents' actions, his
20 actions. And those actions are illegal actions. And
21 unfortunately, they are illegal actions that are just
22 destroying happy life, civil life, the quality of life that
23 exists in our communities.

24 You have heard from a witness, Tina
25 Whittenburg, who gives you with respect to Count 2, it's

1 reversed in the order of chronology, but the September 10th
2 buy. And I mention that now, and I'll mention it later in my
3 argument, because she's an example, also, of what is
4 destroying our community. And it may not be liked by some;
5 it may be understood by some; but utilizing an undercover
6 person is necessary to try to ferret into the subculture, the
7 drug subculture that exists in our community. That then
8 necessitated having to employ Tina Whittenburg.

9 I don't think that you formulated any opinion
10 about whether or not you like her. You don't know her well
11 enough. Perhaps you have already. But what you don't like,
12 I'm certain, is the activity that she performed, she herself.
13 And she was the lower level. She was distributing. And she
14 knew -- and, yes, she reached out to police when she was in
15 trouble, and that then began the saga that you've heard here
16 in this courtroom this week.

17 I have instructions that I'm going to repeat
18 the reading of. They deal with the two counts. I don't want
19 you to for any reason to think that these are more important
20 than any of the other instructions that are contained in the
21 packet that will be given to you and that has been read to
22 you. Consider all these instructions together, because they
23 will guide you in your decision-making process.

24 The first, and I'll read it with respect to
25 Count 2 because that was the September 10th count. And it

1 reads, to sustain the charge of distributing crack cocaine,
2 commonly known as -- cocaine base, I'm sorry, commonly known
3 as crack cocaine as charged in Count 2 of the Superseding
4 Indictment, the Government must prove the following
5 propositions. This is what you have to find now, these
6 propositions, to determine the guilt on that count.

7 First, the defendant distributed cocaine base
8 commonly known as crack cocaine. And second, the defendant
9 did so knowingly or intentionally. It does not matter
10 whether the defendant knew the substance was cocaine base
11 commonly known as crack cocaine. It is sufficient that the
12 defendant knew that it was some kind of prohibited drug.

13 If you find from your consideration of all of
14 the evidence that each of these propositions, the ones I've
15 just read, has been proven beyond a reasonable doubt, then
16 you should find the defendant guilty. If, on the other hand,
17 you find from your consideration of all the evidence that any
18 of these propositions has not been proven beyond a reasonable
19 doubt, then you should find the defendant not guilty.

20 When the opening statements were made I made
21 reference to a road map, and that was done so that you would
22 have an idea of the particulars that pertain to the two
23 counts that you heard, and the timetable that occurred as the
24 charges exist in the Indictment.

25 Going back to September 10th, you heard about

1 the preparation for the undercover operation as it's -- in
2 that exhibit of the building known as CTW. It wasn't done,
3 ladies and gentlemen, inside that building. It wasn't done
4 back in the back of the building. It was done in the open on
5 that parking lot. And as you heard, there were a number of
6 reasons for that being conducted that way. The agents and
7 officers planned the methodology of this operation.

8 And keep in mind, Tina Whittenburg, if you
9 want to look at that one instruction, and it talks about she
10 may have made some inconsistent statements, she may have had,
11 as she told you, trouble with the law, including an armed
12 robbery back at the onset of the early 90's. And she tells
13 you, though, that I made contact with the defendant, and I
14 did so by a telephone, and I did so in the presence of
15 agents, and I did so after having my person searched; and
16 then I was given the money, the buy money, and I was driven
17 to the pre-planned location near the post office there on
18 Belle Street a few blocks down, a few hundred feet, yards,
19 from the CTW parking lot. And she was driven there by
20 Kenneth Williams, an agent, in an unmarked car.

21 And the word "surveillance" becomes extremely
22 important here because she was, from the onset, surveilled.
23 Her person was searched to make sure she had no contraband.
24 She was then taken by the agent to that location near the
25 post office, and then she was watched by the various agents

1 that were in radio contact, and watched the flow of the
2 movement of the undercover operation.

3 She tells you from this witness stand what
4 happened, but there is corroboration of that. It's not just
5 some accusation that she may have made a statement to a judge
6 about what she thought her involvement was in armed robbery,
7 and her reasons for admitting that, her involvement, when she
8 pled guilty. She tells you what happened. I called the
9 defendant, the prearranged location I told him about, and she
10 tells you then I went there under the supervision, the
11 corroboration of the other witnesses that testified before
12 you, and she tells you how he came to that parking lot to
13 determine that she had the money.

14 Was this going to be an illegal contract, a
15 sale? Yes. And when he is told, yes, I've got the money,
16 what happens? He goes back, and surveillance tells you he
17 goes up West 9th Street to that house you also heard about,
18 and here's the back of it (Indicating); parks the car, an
19 older Mercedes is the description; goes across the street,
20 and returns from the building shortly thereafter.

21 And you heard about the agents, Mike Stanfill,
22 Eric Zaber, they are watching this and going by, and driving
23 by, and then positioning themselves elsewhere up the hill to
24 watch. And then the defendant returns to his car; returns
25 back down to CTW, and the sale is consummated; the delivery

1 is made.

2 And Tina then all this time is under
3 surveillance, under corroboration. And she walks back, as
4 you heard, back by the Budweiser sign, and that's going back
5 to the destination that was pre-planned to join with Kenneth.
6 And yes, she made a mistake. She said "Eric." But if you
7 recall, the question was asked, was the person you were
8 riding with a white man or a black man? She didn't remember
9 the name, but she remembered it was a black man that she was
10 riding with, and that's consistent. That's Kenneth Williams
11 testifying I drove her up in my unmarked vehicle.

12 And then it's determined that there is, in the
13 parlance of the drug trade, a shortage; I was shorted. And
14 the agents then in conferring with Tina determined what to
15 do, and they instruct her then to make a return call
16 indicating that there was a shortage. And based on that, the
17 call was placed. And what did the defendant do? He
18 responded to the McDonald's, and corroboration continues.
19 And the defendant's same car seen to drive in there, and Tina
20 tells you who the person was, and the short amount is handed
21 over to her. There's no money involved now because the
22 agreed upon amount had already been paid for.

23 Was that an accident on behalf of the
24 defendant shorting? Don't know. But what did he do? He
25 brought it without contesting. He delivered it. He's in the

1 undercover, illegal business of dealing in crack cocaine.
2 And Tina told you that she had bought from him before. She's
3 a customer of his. And I submit then to you, ladies and
4 gentlemen, that's why it came back, the shortage amount, and
5 why he came back with it. He had a good customer and he
6 wanted to keep the relationship with that customer on a sound
7 footing. It meant money to him, and he delivered.

8 And Tina's testimony was corroborated at that
9 McDonald's. The agents told you what happened there, Agent
10 Scott. There's a stipulation. You have to know that this is
11 crack cocaine. Well, there is a stipulation, and it's agreed
12 upon between the parties that indeed this substance was crack
13 cocaine, commonly known as -- or cocaine base, reversing it,
14 commonly known as crack cocaine. There's no question about
15 what that substance is with that stipulation. So, you've got
16 decided. There's no issue about crack cocaine, and about the
17 substance being crack cocaine, and that it's a Schedule II
18 Controlled Substance.

19 And then there's the weight issue. Is it
20 over -- you have your special verdict forms. Is it over five
21 grams. This is the substance that's stipulated to. And the
22 total of the two, 6.4, and 6.4 is 12.8, obviously over the
23 five-point gram threshold. So, there's no question about
24 that.

25 Tina, unfortunately, is in that drug

1 subculture. You may have some sympathy, empathy for her, I
2 think that can be a feeling for her. Also, though, I'm sure
3 you have disdain for the culture that she's in and
4 participated in. And that's not to be minimized. She did
5 things that hurt that neighborhood she was in.

6 But that then takes one back to thinking about
7 the circumstantial evidence, which I won't read the
8 instruction. But think about this, and the application of
9 circumstantial evidence. You can apply to a lot of the
10 evidence in this case. But at the tail end of the
11 surveillance in the CTW Alton area, you heard testimony from
12 agents about how the car driven by the defendant after the
13 delivery had been made at CTW's proceeded away from that
14 area. And where did it go? You heard testimony that it
15 ended up in the area of Belle Manor. Lo and behold, Belle
16 Manor.

17 And there's the segue, ladies and gentlemen,
18 to the other count in the Indictment, and I'll read that
19 instruction, what you have to find on that one in just a few
20 moments. But isn't it interesting circumstantially that he
21 returns to that car where he's involved in the other count
22 later on in January of '04? He's familiar with that area.

23 And then ladies and gentlemen, I direct you
24 back to the testimony of Tina. And she tells you, I lived
25 there, 344 B, apartment. I did my wrongs there; I had my

1 children there. And the place was infested with drug
2 activity, she being a part of it, but not the source of it,
3 the source of the substance.

4 She told you that she bought from the
5 defendant. She wasn't living there on January 22nd. She had
6 to leave. She had been involved in a search warrant and no
7 longer was welcome there by the management. But she told you
8 about how it was, that she got from various sources. And
9 information was elicited through cross-examination how she
10 dealt with others. And you heard from the agents, DEA, how
11 it was that she cooperated and provided information, and
12 information, by the way, that in some instances could put her
13 on Front Street. So don't think for one minute if you
14 evaluate her that it was an easy thing for her to do, because
15 now she is potentially subject to reprisal if some one of
16 these people would find out what she was doing. That's
17 reality. That's not CSI; that's not what you see on TV.
18 That's reality.

19 And it's a shame, isn't it? Isn't it a shame
20 that her family has to grow up in that kind of situation? I
21 alluded to, and it may have sounded sort of flippant, I
22 didn't mean it to be that way, to that commercial about the
23 nice suburban neighborhood where the guy's in debt up to his
24 eyeballs. But she didn't live in that kind of suburbia. She
25 lived in what's called or commonly referred to as a housing

1 project. She was even homeless at the time on September the
2 10th.

3 Circumstantial evidence. And before I read
4 the second instruction regarding the count at Belle Manor,
5 isn't it interesting then that she talked about dealing with
6 the defendant, and her dealings at Belle Manor. And isn't it
7 interesting, and I repeat then, that at the tail end of that
8 operation, not the end where Tina ends up at McDonald's and
9 sees him again, but when he's leaving after the first half
10 the delivery that he's going back towards Belle Manor. Isn't
11 that interesting?

12 Now, to sustain the charge of possession of
13 cocaine base, commonly known as crack cocaine, with the
14 intent to distribute as charged in Count 1 of the Superseding
15 Indictment, the Government must prove the following
16 propositions.

17 First, the defendant knowingly or
18 intentionally possessed cocaine base, commonly known as crack
19 cocaine. Second, the defendant possessed cocaine base,
20 commonly known as crack cocaine, with the intent to deliver
21 it to another person. It does not matter whether the
22 defendant knew the substance was cocaine base, commonly known
23 as crack cocaine. It is sufficient that the defendant knew
24 that it was some kind of prohibited drug.

25 If you find from your consideration of all of

1 the evidence that each of these propositions has been proved
2 beyond a reasonable doubt, then you should find the defendant
3 guilty. If, on the other hand, you find from your
4 consideration of all of the evidence that any of these
5 propositions has not been proved beyond a reasonable doubt,
6 then you should find the defendant not guilty.

7 With respect to some of the elements, one of
8 them again is the substance crack cocaine, this is the
9 package it's in. It's Government's Exhibit 14. And that's
10 the substance, as you recall the evidence, that was on his
11 person that night of January 22nd. I'll get in more detail
12 of that in just a moment. That's what was in his coat.

13 Now, is it crack cocaine? You have some
14 instructions about expert witnesses, and you heard from the
15 laboratory chemist criminalist who came in here. And she
16 told you what she did in testing. There were two tests.
17 Initially it was for cocaine presence. And then, as you
18 heard, there was a call from DEA, Cindy Scott, and you heard
19 then that there was a further test requested, and that indeed
20 the request was to determine whether or not this is cocaine
21 base, crack cocaine. And she told you how she did that
22 testing. And that's what an expert's for, ladies and
23 gentlemen, because I couldn't do it. I don't have the
24 knowledge, the ability. It's not my field. That's her field
25 as an expert. And she told you what it is.

1 Now, once again we have the issue of the five
2 gram threshold. And in this instance, I'm not a math person
3 either, but 5.9 grams is obviously more than five grams. The
4 threshold is overcome. So, that part of it, ladies and
5 gentlemen, is there. The question then becomes what was he
6 doing there at Belle Manor January 22nd when Lieutenant Hayes
7 is going by performing his duty in an attempt to try and stem
8 and keep -- stem illegal activity and keep law and order in
9 that area. And remember how he testified that he drove by,
10 saw the car, and you have a car with darkened windows other
11 than the front windshield, and the motor's running. There's
12 exhaust visible because it's January 22nd, and it's cold.
13 And he makes the U-turn going down there, because you can't
14 exit in the direction that he was going. You have to make a
15 U-turn and come back and return to get out the same way you
16 entered, one entry point.

17 When he turned, the headlights provided enough
18 illumination to determine who it was in that car. And he
19 said, I know him; it's Christopher Taylor, the defendant.
20 And he also knows that with respect to his patrolling that
21 there are trespassing laws, and there are also, he observes,
22 the no license plate on the front, some violations. And he
23 stops his car then with those violations and seeks to
24 determine what is the reason, number one, for the defendant
25 being there. It's a trespass.

1 And what does he do? He goes up to the
2 window; has a brief conversation; determines that the
3 defendant is not there to visit. And he knows he doesn't
4 live there. Lieutenant Hayes knows that. And at that point
5 in time it was referred to as a traffic stop. It was a
6 running engine, but that's the way it was referred to. It
7 wasn't actually a stop, but it was a traffic violation. The
8 car is running and there is a tag missing on the front.

9 At that point in time he asks for the driver's
10 license. And at that time I would suggest that Lieutenant
11 Hayes is being generous with the defendant, because as he
12 testified, he didn't intend to arrest Christopher Taylor. He
13 didn't intend to take him down to the lock-up. He intended
14 to issue the citation; hold the driver's license as his bond,
15 which the law permits; explain to him what the Court
16 procedures were to be, that he would have a date, so that he
17 would know where to go with regard to the tag violation.

18 And lo and behold what happens? You heard
19 Officer Bumpers. But the situation changes, and it changes
20 remarkably. Because when he goes back to present the
21 citation, we then have Lieutenant Hayes smelling the odor of
22 cannabis, marijuana. And now it's a whole different, as they
23 say in the sports field, ball game.

24 What does he do? Well, he questions, because
25 he's caught by surprise, and also remember that Bumpers tells

1 you, yes, I picked up that odor, too; Bumpers having been in
2 narcotics, also. And then he asked the defendant, Hayes
3 does, to exit the car. And at that point in time Hayes looks
4 in with his flashlight and then observes the napkin that's in
5 the bags back here also, and he sees vegetable substance,
6 which he believes to be cannabis or marijuana. And when he
7 sees that, then it becomes a situation where he now has a
8 different officer obligation before him, and based upon that
9 then he says to Bumpers, Tony Bumpers, arrest him; and he is
10 arrested. And he's taken down; and when he's taken down,
11 he's searched.

12 Now here is one crucial point of this
13 instruction regarding that count and his possession. Did he
14 have it there to distribute? Yes, he did. Keep in mind
15 where he is. Number one, you've heard about what kind of
16 place that is. It's a high drug trafficking area. You also
17 know that it's 11:00 at night. You know it's cold, and he's
18 waiting there with his engine running. And you also know
19 that he's got this 5.9 grams on his person. And you also
20 know from the testimony of Tina Whittenburg and Mike
21 Stanfill, the expert from DEA, that that amount is a street
22 distribution amount.

23 And you also know that in his pocket, \$799,
24 ladies and gentlemen. And \$799 composed primarily of
25 twenties, tens; there's a fifty or two; there's a hundred.

1 Remember the transversal of the three and the five? And
2 there's also some ones; four, I think it was. But what did
3 you hear about the trafficking with the cocaine?
4 Twenty-dollar rocks, fifty-dollar rocks. That's the
5 distribution level; that's the addict usage level. And he's
6 got that money on his person.

7 It all fits circumstantially. It all fits
8 when he drove back there from September the 10th. It all
9 fits. Mike Stanfill tells you that in his opinion that is a
10 distribution amount, 5.9 grams, from which in the
11 neighborhood of a thousand dollars could be generated. And
12 Tina Whittenburg then tells, she tells you my brother was to
13 go there, and there was a mix-up on the time. It all fits
14 because this defendant did these things. And then it becomes
15 incumbent upon you to address what he did, not something that
16 someone else created; what he did. And that's why we're
17 here.

18 THE COURT: Thank you, Mr. Daly.

19 Ladies and gentlemen, Mr. Stobbs has a maximum
20 of fifty minutes to talk. Does anybody need to use the
21 restroom before he begins?

22 Okay. Mr. Stobbs, your closing.

23 MR. STOBBS: May it please the Court?

24 THE COURT: Mr. Stobbs.

25 MR. STOBBS: Mr. Daly.

1 More importantly, Chris, you, because that's
2 what we're all here for.

3 DEFENDANT TAYLOR: Thank you, Mr. Stobbs.

4 MR. STOBBS: When I talked to you on Monday I
5 started off by saying that this case started on May 11th,
6 2004. And but for May 11th, we wouldn't be here. His fate,
7 it was sealed on May 11th, 2004, when the DEA, the ATF, Rory
8 Rathgeb, showed up at his house on Coppinger and West 9th to
9 roll him. His fate was sealed. He was going to get charged
10 regardless. They wanted him to be a snitch on #1. And
11 you're going to hear about #1. They went there on May 11th
12 of 2004 because they needed a snitch to get #1.

13 We are going to talk a lot about Tina
14 Whittenburg; and we are going to talk about these
15 coincidences about how she was fired by the DEA, and hired by
16 the City of Alton, and fired by the DEA, and rehired. They
17 needed someone to get #1. And this poor, dumb schmuck just
18 happened to be the one that they were going to get. That was
19 the target that they could get.

20 You've seen exactly how they treat snitches.
21 You've seen exactly how they're treated. It's a license to
22 break the law. That's what they are given. This isn't
23 something that someone is saying; this is something that came
24 from right here, from the witnesses that the Government put
25 on.

1 Tina Whittenburg comes in here and she tells
2 you because she's a snitch she's not expecting anything.
3 She's hopeful for this, and she's hopeful for that. What's
4 happened to her? She has not spent one day in jail because
5 of what she has done.

6 And you know what? It in all sincerity, we
7 are talking realistic, maybe he made a mistake. Maybe what
8 Chris should have done on May 11th of 2004, said, instead of
9 taking his coat off and tell them, get out of my house; I'm
10 not a snitch. The last thing that I want people to know that
11 I live around is that I'm a snitch. That's the last thing
12 that he wants. Because that's how it works in his world.
13 You don't want to be known as a snitch. He sealed his fate.

14 And what he's done, and we are talking about
15 what we do in this country, how great this country is and the
16 wonderful civic duty that you're doing, he has put his fate,
17 his fate, in the hands of 12 people that he doesn't even
18 know. And you put yourself in that position. He could have
19 on May 11th, 2004, said, hey, what do you need to know? You
20 need me to come in here and tell you about something I did,
21 even though you're not going to write a report about it?

22 I mean, this is something that -- this is TV.
23 You know, some guy that puts his faith in 12 people that he
24 doesn't know instead of some sure shot that he could have
25 gotten on May 11th of 2004, when they go and talk to him

1 about this 5.9 grams of crack.

2 Tina Whittenburg didn't do that. And it's
3 real easy to take the easy way out. That's the easiest thing
4 in the world. The easiest thing in the world is to be
5 sitting in a jail cell. And this malarkey about worrying
6 about her kids and all, she was worried about herself. And
7 to reach out to the DEA, because they are going to reach out
8 for her, instead of putting your fate in the hands of 12
9 strangers. That's what the jury system is about. He sits
10 there presumed innocent right now; presumed innocent until
11 you begin deliberating.

12 I'm going to talk about the exhibits a little
13 bit more in-depth as I go along, but what I want you to look
14 at is, this is our Exhibit 33. Please look at it. It's a
15 fax from Cindy Scott, coincidentally sent on May 11. That's
16 just a coincidence, just part of the normal business
17 activity, I suppose. Here's the original analysis and the
18 second analysis to test for crack. We're over the five gram
19 threshold. Yea, it can now be a federal case.

20 How do we know that? How do we know that it's
21 going to be a federal case? Because look at Exhibit 32. On
22 March 11th of 2004, Cindy Scott calls, and it says Cindy
23 asked that the case be tested for base, and she would like it
24 faxed. Now, you're probably saying, well, this really isn't
25 important. Why is that important? Well, the reason it's

1 important, the reason that it's crucial, and the reason that
2 these two pieces of paper show that they were going to make
3 him a target, Chris a target on May 11th, is because they
4 came in here, just about every Government witness came in
5 here and said, January 22nd, we didn't know he was charged;
6 we didn't know. We didn't know he was charged. Remember
7 that? But I didn't know he was charged. You didn't know he
8 was charged? I didn't know he was charged. I can't look on
9 my computer; I can't use the phone; I can't go down to the
10 clerk's office.

11 This is the DEA. They didn't know he was
12 charged. But they knew that he was going to go -- what Miss
13 Hymes testified to, she was told it was going to be taken
14 from a state case to a federal case. And if Chris had been
15 lucky enough on January 22nd to have 4.9 grams of crack
16 cocaine instead of 5.9 grams of crack cocaine, we wouldn't be
17 here. Well, how do we know that? Because they're not at the
18 five gram threshold. So, we are here for .9 grams of crack.
19 That's really what we are here for, for Count 1.

20 And human nature is that someone's going to
21 say, I see what he's saying about making him a target on May
22 11th. They shouldn't have done that. You know, they
23 shouldn't have done that. But you know what, that 5.9 grams
24 of crack, he had it on January 22nd. There's been no
25 cross-examination that he didn't have it. He had it. He

1 didn't distribute it. His intent wasn't to distribute it.
2 And again, someone's going to say, yeah, but he had all that
3 money. He had \$799. And we had an expert witness from the
4 DEA come in and tell us that 5.9 grams of crack cocaine and
5 \$800 means that Chris was going distribute it. That's how
6 they knew that, that Chris was going to distribute it,
7 because that's the expert. And there's an instruction that
8 Judge Herndon just read you. Judge, do they get to take the
9 instructions back with them?

10 THE COURT: Yes, they take them back, and they
11 all have their own copies.

12 MR. STOBBS: And if you read the instruction,
13 it talks about the expert witness. You are supposed to look
14 at any sort of bias that he might have. Well, I don't know
15 about you, but if someone is working for the DEA, I don't see
16 him coming in here testifying that it wasn't distribution.
17 What separates this case from Count 1 is sitting right there
18 (Indicating). David Hayes. David Hayes, our community is
19 blessed to have someone like David Hayes. At 11:00 at night
20 he and Scott Waldrup are driving around in a black and white
21 on a cold winter evening. David Hayes is from Alton. His
22 whole life has been with the Alton Police Department for 27
23 years, that knows who's who in Alton; someone that arrests
24 Chris on January 22nd; someone that sees the crack cocaine;
25 someone that sees the money; someone who knows, knows the

1 drug culture in Alton. He knows who's who.

2 These are in evidence. These are in evidence
3 (Indicating). The offense is possession of a controlled
4 substance. That's what David Hayes thought. And you heard
5 Officer Bumpers say, well, you know, David Hayes and Scott
6 Waldrup, they are hard-working guys; they are good bosses;
7 and if I thought that it was for distribution or I disagreed
8 with this, I could have told them and they would have talked
9 about it with me. And you know, what if -- if any of you
10 think that Agent Stanfill knows more than David Hayes about
11 who's who in Alton, you should convict him of Count 1,
12 because there's no better argument that anyone can make,
13 until on May 11th becomes the threshold amount, and they
14 didn't come in here for distribution.

15 There's a certain -- and you know, should you
16 feel sorry for people using drugs? I don't know. But you
17 know what? We are not here for that. What we are here for
18 is to determine if Count 1, if on January 22nd of 2004, Chris
19 Taylor possessed -- we know he did, but if he intended to
20 distribute 5.9 grams of crack cocaine. That's what we are
21 here for for Count 1.

22 And Count 1 did take an odd twist yesterday
23 afternoon when we learned that Tina Whittenburg happened --
24 that Chris was taking that crack to her brother. So, it's
25 either a family business, or it just happened to be some

1 trial moment, you know, where she comes in here and says
2 that, oh, yeah, he's dealing with my brother. We know
3 exactly where her brother is. He's in jail. He could have
4 been brought in to here, sat right down in that chair, and
5 said that that's the person he was going to deal with.

6 Tina Whittenburg came in here and she said
7 that she was dealing, that Chris was going to go to deal that
8 crack to her brother. Wouldn't it be wonderful, wouldn't it
9 be wonderful, it would be wonderful if we had a DEA report
10 saying that Tina Whittenburg told me that on January 22nd of
11 2004, that Chris Taylor was going to deliver 5.9 grams of
12 crack cocaine to my brother. Wouldn't that be wonderful? We
13 don't have that. What we have is David Hayes making a
14 determination regarding what Chris did.

15 He has now been charged by a grand jury
16 indictment. That's not evidence. The evidence is what has
17 come in through the witness stand. And again, he has put his
18 fate in your hands when he decided on May 11th, 2004, not to
19 be a snitch.

20 And you talk about the money, \$799, or
21 whatever it is. You heard testimony it's a high drug area.
22 We know that. It's also -- there's other crime that goes on,
23 gambling and whatnot. Chris has had trouble with the Alton
24 Police for gambling. You heard Scott Waldrup talk about
25 that. I'm not saying that on January 22nd in the middle of

1 the night, freezing out, he's rolling dice. No one is
2 suggesting that. But you know what? People gamble inside.
3 There is a big boat in Alton.

4 You can't simply make the assumption right
5 now, well, he had drugs and he had money, so he's a drug
6 dealer. You heard about this C-Lob record label that he had.
7 Chris was with Tina Whittenburg's sister in Colorado helping
8 her. You heard Tina Whittenburg testify that she had seen
9 billboards in Alton with C-Lob Records on it.

10 MR. DALY: That's not correct, Your Honor.

11 THE COURT: Well, the jury has heard the
12 evidence. They'll decide that fact.

13 MR. STOBBS: That she had seen billboards with
14 C-Lob Records on it. That's his company. That's a company
15 that he had. How well is he doing? We don't know that. But
16 the thing is, that just because you see five -- well, the
17 threshold amount plus .9 grams of crack, and \$800, that alone
18 doesn't make him guilty for January 22nd of 2004. Because
19 the question is, who was he going to distribute it to? Who
20 was he going to distribute it to? Tina's brother; we now
21 know that.

22 But you heard David Hayes testify about what
23 he saw. Detective Hayes said, well, he rolled up -- or,
24 didn't appear to be any real hurry on Chris's part. And
25 that's important because you heard Tina talk about these drug

1 | deals taking place like that. The last thing that this guy
2 | is going to do is sit in his car with the threshold amount
3 | plus .9 grams of crack, and see David Hayes roll around and
4 | just sit there. He's either going to throw the dope away --
5 | he's going to get rid of it somehow, but, you know, he's not
6 | just going to sit there relaxed.

7 | And he's not -- David Hayes didn't indicate
8 | that he was nervous at all. He just told him what it was.
9 | What were you doing? Smoking a blunt. What's a blunt? It
10 | could be a lot of different things, including marijuana laced
11 | with crack. That's what the testimony was. And I think that
12 | was what the testimony was.

13 | And the thing that -- the thing that's
14 | interesting on Count 1 is that when he was arrested, he was
15 | booked. And then he went on about his business until May
16 | 11th. And May 11th, that was when the first statement that
17 | we heard took place. It's after he told them to get off of
18 | his property. No one is going to know he's a snitch, and
19 | he's going to make sure that everyone knows that if the
20 | police show up at his place that they are not welcome, and he
21 | makes this statement. And then he makes another statement on
22 | July 22nd or July 27th, as well.

23 | All of these statements are consistent. Hey
24 | dude, I was just using it. I just possessed it. Those were
25 | -- it's not like, I'm not a big time dealer; it's not like

1 I'm making that much money off of it; or, I'm just doing it
2 for my kids. I'm not a people person; I can't get a job; I'm
3 doing it for my kids. See, that's important, because what
4 Judge Herndon told you about the statements that he made, you
5 have to look at where they were made, the conditions that
6 they were made.

7 The time to make a statement saying that you
8 were going to distribute it, would it have been here in
9 Court, on July 27th, or when he was arrested on July 22nd; or
10 had the police decided to call him up on May 11th. They have
11 a phone and he has a phone. They could have called him up
12 and said, hey, you want to be a snitch? They could have
13 learned it on the phone. Because you've heard about how
14 dangerous this snitch game is, and how people could get hurt
15 and whatnot. Well, they want to roll him. They want Chris
16 to be a snitch. So, it's not like they went down low so no
17 one could figure out what they were doing. I mean, they went
18 there in force.

19 If you're going to get someone to be a
20 confidential informant the last thing you do is have four
21 white cops show up in this kind of a neighborhood in body
22 armor and whatnot. That's important, because when you hear
23 the statements when he said he possessed it, you know, you
24 can't distribute it until you possess it. Well, that's
25 obvious. We are not contesting the possession. What you

1 have to decide is whether or not he meant to distribute it.

2 A number that's important that you're going to
3 see through the exhibits that you heard about in testimony is
4 6.4 grams. Well, on September 10th there were two 6.4 gram
5 transactions, remember? When Tina Whittenburg's house was
6 raided on January 30th, she had hidden on her person 6.4
7 grams of crack. Guess how much her sister flushed down the
8 toilet? 6.4 grams of crack. It's conceivable that Chris
9 might have had 6.4 grams of crack and smoked some of it.

10 You know, you heard about people doubling up,
11 drug addicts doubling up, or whatever. I mean, some time you
12 might be thirsty and want a soda, and you go to Schnuck's and
13 instead of getting the six-pack you get the twelve-pack.
14 That's basically what you're talking about, that kind of
15 mentality. You heard Scott Waldrup say that an addict would
16 buy as much as they could. That's common sense. That's just
17 common sense.

18 But the amount, the 5.9 grams isn't common
19 sense, because when they raided Tina's house, what did they
20 find? They found scales. What are scales for? Scales are
21 to weigh the drugs when Tina breaks it down. Scales are so
22 she can distribute the drugs in smaller amounts to increase
23 her profit. What else was in Tina's house? Baggies. None
24 of that was found in Chris's car, this rolling drug
25 distribution car, or whatever. You know, is he weighing it

1 out in his hands, breaking off these rocks; or, is he smoking
2 it? If he's going to distribute it at that time he's going
3 to have a scale; he's going to have Baggies; he's going to
4 have indications that could be shown to you that he's
5 distributing it, other than the weight and cash, which is the
6 same things that Detective Hayes found.

7 Count 2 is a riddle. The riddle of Count 2
8 is, how many DEA agents does it take to observe a simple drug
9 transaction? And the answer is, obviously more than
10 testified here, because I lost count of the number of agents
11 that testified here. They all testified to being in this
12 place and that place, and they were looking this way and that
13 way, and Rathgeb could see 150 yards. But what none of these
14 testified to was actually observing this transaction. None
15 of the agents testified to observing Chris give the crack to
16 Tina. No one's testified to that.

17 This is the United States of America vs.
18 Christopher Taylor. You heard that Eric Zaber had
19 binoculars. He didn't use them. He could have taken his
20 binoculars and seen the necessary distance. The DEA could
21 have gone to a local Target and gotten a video camera. These
22 video cameras have zoom lenses on them. Boy, that sure would
23 have been good, wouldn't it have? Sure would have been good
24 to hear Eric Zaber say, you know, I took out those binoculars
25 that I had and I saw it. I had those binoculars and I saw

1 it. Sure would have been nice to have some sort of a
2 recording, wouldn't it have? Sure would have been nice to
3 have that tape, that CD Rom.

4 You have none of that. You go back and
5 deliberate, and you're talking about Count 2, take all the
6 agents out of it and what do you have? You have Tina
7 Whittenburg. That's all you have. And you get to ask
8 yourself a very simple question. After having observed Tina
9 yesterday, you get to ask yourselves a very simple question.
10 Does Tina Whittenburg strike me as the kind of person that
11 would lie to the DEA? That's what you get to ask yourselves.
12 Is she the kind of person that would lie to the DEA?

13 They have all of this fancy equipment. DEA
14 has this fancy equipment. They put the receiver on her bra,
15 testing one, two, three; testing, one, two, three. They are
16 driving all around town with their car radios tuned to Tina
17 and, miraculously it goes (indicating static noise). Ask
18 yourselves this question. Is Tina Whittenburg the kind of
19 person that might mess with a microphone? Because you got to
20 realize, he's the target. Chris Taylor is the target.

21 You've heard some of the instructions, but
22 what Judge Herndon told you about Miss Whittenburg is,
23 "You've heard testimony from Tina Whittenburg who received
24 benefits from the Government in connection with this case,
25 namely financial payments, and has admitted lying under oath

1 to Judge Keshner at the time of her plea to the armed
2 robbery. You may give her testimony such weight as you feel
3 it deserves, keeping in mind that it must be considered with
4 caution and great care."

5 Caution and great care. The DEA didn't worry
6 about caution and great care. The DEA's method of signing up
7 a snitch is, hey, if you don't break the law and we don't
8 find out about it, everything is fine. We are going to need
9 to talk to you every now and then, but we are not going to
10 take any notes; we are not going to -- I'll take some mental
11 notes. It's not going to be in a DEA-6 or any sort of a
12 report.

13 And you've heard, well, you know, you can't
14 get someone like Chris Taylor without using someone like Tina
15 Whittenburg. For that precise reason, for that precise
16 reason there's rules and regulations in the DEA agents'
17 manual, for that precise reason. When they knew that the buy
18 down at CTW's went bad, they could have rewired Miss
19 Whittenburg at McDonald's. Now, she said, hey, I was wearing
20 a wire at McDonald's; and Agent Scott said, no, we didn't
21 rewire her. Again, it sure would have been nice to have
22 heard what took place at McDonald's, instead of just hearing
23 Miss Whittenburg tell about it.

24 But see, the whole thing is, you talk about
25 this culture in our country, drugs. Everyone in this room

1 | deplores them. There is no doubt about that. But the
2 | problem that you have, is that you look at this, and you want
3 | to assume that everything was done correctly. Well, yeah,
4 | but, you know, she went back there with 12.8 grams of drugs
5 | and she was searched. And what comes to mind is when you
6 | hear this "thoroughly searched," because that's what the
7 | manual says, "thoroughly searched." David Hayes says
8 | thoroughly searched in the City of Alton is strip-searched.
9 | And you know why? A reason is, not just so that they can't
10 | hide drugs or contraband, but what about the prospective
11 | danger these snitches could pose to law enforcement? That's
12 | why there's supposed to be two of them with the snitches at
13 | all times. Part of it is officer safety. You heard over and
14 | over again, officer safety, officer safety. So they can't
15 | hide weapons on them.

16 | You've heard about police officers in other
17 | jurisdictions who patted down defendants and they had a gun
18 | on them. That's the difference between thoroughly searched
19 | the DEA or thoroughly searched David Hayes. And you're going
20 | to see the search warrant that Detective Rathgeb served on
21 | Miss Whittenburg. And go through it and see how many times
22 | it talks about the confidential informant being
23 | strip-searched. Their reports indicate, or the DEA manual
24 | says you have to put in the report that the snitch was
25 | searched, thoroughly searched.

1 Now, logical conclusion to that is, because
2 you get some defense lawyer up here asking you questions,
3 well, how do you know that she was thoroughly searched,
4 whatever. Well, defense lawyer look in my DEA-6 report; it's
5 right there. It's human error. We were here until late last
6 night working on jury instructions and we made an error.
7 It's human error. That's part of life. It was corrected
8 instantaneously. These errors have not been corrected at
9 all. And you have Chris sitting there, sitting there with
10 these uncorrected errors.

11 And you hear what Miss Whittenburg said when
12 she wrote her report after the CTW buy, 5:55. That's an
13 important time. 5:55 is an important time because she makes
14 this report that she's supposed to do saying that I bought
15 half an ounce of crack from Chris. Remember she said that?
16 Remember, she said she bought half an ounce of crack cocaine
17 and gave him \$500? And then when I said, well, wait a minute
18 -- I ended up getting half an ounce. And if someone said
19 that it was 7:20, they would be lying? Oh, yeah, they would
20 be lying; it was 5:55. That's when we did it at McDonald's,
21 which is contrary to what every person testified about
22 McDonald's.

23 That's important, because we contend that on
24 September 10th, Miss Whittenburg had hidden on her somewhere
25 6.4 grams of crack, two different locations, and she went

1 down there and she set Chris up. She gave him a rock, or
2 whatever, and she set him up. And why would she do that?
3 Well, for the very reasons we are talking about. She's
4 desperate. What do desperate people do? Desperate things.
5 What does a desperate person like Tina Whittenburg do? Well,
6 she's living homeless -- homeless at the Lewis and Clark
7 crack hotel isn't exactly homeless, she's just moving her
8 drug base, her drug operations, and she's starting up again,
9 and she sees some easy money through the DEA.

10 You have to find Chris guilty beyond a
11 reasonable doubt, and on Count 2 all you have, the only
12 person you have is Tina Whittenburg. And the Government's
13 Exhibits 10 and 11 are Count 2. Count 1 is Government's
14 Exhibit 14. Count 2, it looks like someone took a hammer to
15 them and just smooshed it up. The Illinois Crime Lab didn't
16 have to do that when they were trying to determine that it
17 was .9 grams over the threshold amount.

18 Two or three different times Miss Whittenburg
19 said she was telling you the truth. She was being honest
20 about this. So, she just lies in State Court. And it's
21 absolutely amazing that, you know, her boyfriend, Steven
22 Jason, had a gun put to that random victim's head so that he
23 could steal a jacket for Tina. Now, don't you think that
24 that victim, that random victim was thinking about her kids?
25 Don't you think she was thinking about her loved ones? Don't

1 you think she was thinking about her life? Don't you think
2 she was praying for her kids? Don't you think she was
3 praying for her life, whether or not she would see her loved
4 ones again? So Tina could get a jacket. And she wore that
5 jacket. At anytime she could have said, Steven, stop it;
6 let's go. She could have given the jacket back instead of
7 wearing it. She wore it. And that's the same Tina
8 Whittenburg that at one or two in the morning when she's
9 putting her two-year-old kid in bed at one or two in the
10 morning, because she's doing all this for her kids, she takes
11 that woman's head and beats it on the ground.

12 MR. DALY: Your Honor, now I am going to
13 object to that. That is clearly not the evidence, and it's a
14 misstatement and an attempt to mislead this jury.

15 THE COURT: Sustained.

16 MR. STOBBS: This woman is sent to the
17 hospital. The victim is sent to the hospital. This is the
18 same Tina Whittenburg that she goes before Judge Keshner and
19 pleads guilty to a crime, and then she comes before you and
20 she says, well, I really didn't do the armed robbery; I was
21 just there. I was just standing by; I was an innocent
22 bystander, even though she's the one that got the proceeds
23 from the crime; even though she's the one Steven Jason did
24 this for; even though she's the one that really reaped the
25 benefits. And whether or not the gun, like she said, was

1 empty, is irrelevant, because I tell you the random victim
2 probably thought that the gun was loaded.

3 Tina says that she makes a phone call, but
4 that phone call can't be -- those -- the tape wasn't made of
5 that either. You can't hear it very well. Again, this is
6 the United States of America vs. Chris Taylor, and they don't
7 have the resources to do something like this properly, or, to
8 do the thorough kind of investigation that needed to be done
9 so that it is done properly, to ensure that it's done
10 properly. They are there listening, listening to what's
11 going on. And as soon as they couldn't hear -- they are
12 talking about the safety of Tina Whittenburg, but they don't
13 say anything when they stop hearing the transmissions.
14 Something could have happened to her. Why didn't they rush
15 in? They couldn't see a drug transaction, so they certainly
16 couldn't have seen anything else.

17 You have to ask yourself regarding Count 2, is
18 it possible that Tina Whittenburg is the kind of person that
19 could have set Chris Taylor up for her own benefit. You have
20 to regard her testimony with caution and great care.

21 The Judge also told you that you heard
22 evidence that before trial Tina Whittenburg made statements
23 that may be inconsistent with her testimony here in Court.
24 If you find that it is inconsistent you may consider the
25 earlier statement only in deciding the truthfulness and

1 accuracy of that witness's testimony in this trial. Again,
2 the amount of inconsistent statements that Miss Whittenburg
3 made are astounding. And if you take away -- and most of you
4 took a lot of notes, if you go through your notes and you
5 take away, just take away the people that didn't see
6 anything, you take those people away, Cindy Scott didn't see
7 anything, the agents didn't see anything, you take those
8 people away, and you're stuck with Tina Whittenburg. And you
9 hear that commercial about the lawn stuff, and whatever. You
10 know, all of you know people that have had a very hard way to
11 make it from Point A to Point B. The easy way out is what
12 Tina Whittenburg did. She says she made tens of thousands of
13 dollars dealing crack.

14 Again, you took notes. She sits up here --
15 Agent Scott testified that she dealt at least between 70 and
16 a hundred ounces between this, I think, two-year time period.
17 She broke it down into twenties and fifties. What did Agent
18 Stanfill say when Chris Threlkeld said, what's the profit on
19 that; what's the profit on that? I hope someone took notes,
20 because Agent Stanfill said between 2,000 and 25 hundred
21 dollars. Ask for a calculator. Two thousand times 100,
22 that's \$200,000, just for that time period. Because she came
23 in here and said, oh, no, when my baby was born in 1996 is
24 when I started dealing drugs. And some of the exhibits are
25 from the reports that the DEA has, and you'll see that in

1 those reports she says that basically it started a couple
2 years ago, that it basically started ten years ago. Well,
3 just extrapolate that number over time then. She's made
4 hundreds of thousands of dollars.

5 Well, what's the benefit of making hundreds of
6 thousands of dollars illegally dealing crack? You don't pay
7 taxes on it. And this business about the commercial about
8 the nice lawn, Belle Manor is not a nice lawn. It's no nicer
9 if you look at the picture of Coppinger and West 9th. But
10 the idea of living in a federally subsidized housing project
11 is so that you can get, as Miss Whittenburg testified, a foot
12 up, so you can get your kids a foot up, not so that while
13 they are sleeping in bed and someone bangs on the door you go
14 down and deal crack.

15 You know, the skill Tina has is dealing crack,
16 and I guess working in a restaurant, and I think a
17 cosmetologist, even though she's not a people person. She's
18 eventually going to have to be a people person because
19 eventually something is going to happen where she's going to
20 have to work. March of this year she gets arrested, and we
21 have an exhibit of, I think it's 51, of where the March
22 report where she's a target, that Rory Rathgeb says she's a
23 target. Well, what's that tell you? That tells you that
24 they knew she was dealing drugs before.

25 The confidential informant says I dealt drugs

1 with Tina before this time. But bad luck that Tina had, that
2 was the only time she dealt between when she told Judge Stack
3 that she wasn't going to smoke marijuana or deal drugs
4 anymore, that was the only time, that was the only time that
5 she dealt crack, that one time. And the hundred times she
6 said in her statement, oh, no, I did that before.

7 All right. You look at the other reports, she
8 never mentioned those people. You look at the statement that
9 she makes in January of 2003 when she's arrested. She
10 mentions four or five different drug dealers, and the one
11 person she doesn't mention is the target. She doesn't
12 mention him. Now, she says that she's working so hard for
13 the DEA she can't get a real job. So she must be living off
14 of the profits of this empire she constructed. She must have
15 been doing something to get by, because you heard her say she
16 was only paid \$50. And the agent said she was paid \$250 for
17 expenses, which started out being gasoline, and then being
18 taxi. Hey, I need to get a taxi to go to a drug deal. She
19 doesn't mention Chris.

20 She then tells Agent Scott in August that she
21 started dealing with Chris a couple months ago. She doesn't
22 say fifty to a hundred times in ounce quantities. No. She
23 says small amounts. That's all something that you have to
24 take into consideration, because the burden is on the
25 Government to find -- that you find Chris guilty beyond a

1 reasonable doubt. The Government gets to stand up and talk
2 after I'm done because of the burden that they have. It's a
3 burden.

4 And Tina Whittenburg is the only person who
5 testified here about what transpired on September 10th,
6 having personal knowledge. You heard no tape; you heard no
7 agent saying they heard it; you heard no agent saying that
8 they observed it. Beyond a reasonable doubt.

9 She's made hundreds of thousands of dollars
10 dealing crack. When Chris Taylor gives her allegedly this
11 quarter-gram of crack, or quarter-ounce of crack, her hand is
12 a human scale. The thousands of times she's dealt crack, she
13 knows the difference immediately between half an ounce, and
14 an ounce, and a quarter ounce, and a gram, and two grams.
15 She knows that. She knows it just by looking at it.

16 Again, is she the type of person that would do
17 this? In the DEA report there's no mention that they
18 searched her. What she writes, there's no mention that they
19 searched her. But you've seen these contracts that she
20 signs. She signs a contract on August 22nd that's supposed
21 to start September 4th. Why is that? Why didn't it just say
22 August 22nd it started? She was deactivated in March. Oh,
23 well, the first quarter was over, we didn't really need her
24 anymore. Well, that's -- you've heard Tina, the kind of
25 person she is. And if you believe, and I think the evidence

1 has shown, that she's not the kind of person that's going to
2 stop dealing dope.

3 She's then stopped -- the City of Alton then
4 signs her up in May of 2004, and then the DEA signs her up
5 again in June of 2004. Again, is this just a coincidence
6 that Chris happens to be talked to by them on May 11th of
7 2004, which is shortly after Tina is fired and shortly before
8 she starts talking again? No. Chris told them, get lost.
9 And they thought, we need to get a snitch. Well, he's not
10 going to do it, got to get Tina back on board. When does her
11 contract with them stop? This is great. When does it stop?
12 December 17th of 2004. Do you remember that? The second
13 contract, December 17th of 2004. When did Tina plead guilty
14 in Madison County? When? December 16th of 2004.

15 In March of 2005, she's caught dealing dope.
16 They realize, we need a hammer on this lady. We need a
17 hammer on her. Oh, but she told her probation officer. We
18 need a hammer on her, so we are not going to charge her.
19 Tina, if you screw up this time, you're getting charged and
20 you're going to jail. You heard what Judge Stack told her.
21 If you come back and re-offend, you're getting double the
22 time. That's the hammer they have. They don't even trust
23 her. They don't even trust her. If they trusted her, they'd
24 charge her in March and let her go from there. They need
25 that hammer over her head. And you've seen the reports as to

1 why she was fired. And one, she wasn't cooperating; wasn't
2 willing to give any information, and no longer desires to
3 help.

4 And ladies and gentlemen of the jury, your
5 decision is not going to be easy; it's just not. He has
6 trusted you; he's put his fate in your hands. He hasn't put
7 his fate in the hands of the DEA. And after you deliberate,
8 we are going to ask that you return verdicts of not guilty on
9 Counts 1 and Counts 2.

10 Thank you.

11 THE COURT: Thank you, Mr. Stobbs.

12 Mr. Daly has a little less than 20 minutes
13 remaining. Is it okay to keep going?

14 Mr. Daly, your rebuttal argument.

15 MR. DALY: Defense counsel John Stobbs has
16 argued, and argued, and argued. I would ask you to go back
17 and remember how he, in questioning, cross-examination wise,
18 Tina Whittenburg, his methodology of asking questions. They
19 were rapid fire. And he would ask, and I'm going to be
20 flippant in some of these, but he would ask questions such
21 as --

22 MR. STOBBS: Judge, I'm going to object. This
23 is a personal attack on me.

24 THE COURT: Well, no, I don't think so. It's
25 overruled. It's argument.

1 MR. DALY: Such as, the moon's made out of
2 cheese, isn't it? The sun's colored blue, isn't it? Tina
3 Whittenburg, they took your t-shirt off you, didn't they,
4 when they strip-searched you? Recall that. Yes, she made
5 some mistakes. But you heard the agents talk.

6 And strip-search, he tries to make a big deal
7 out of that. Well, you heard pat-down. That's nomenclature,
8 and it's not generally a strip-search, and it's not done out
9 in public.

10 You also heard an argument here, and it was
11 sustained, that she was pounding the lady's head on the
12 concrete. That's not the evidence. What it is is an
13 argument of smoke and mirrors, and I'm sure you've heard that
14 phrase.

15 Isn't it interesting, ladies and gentlemen,
16 that he didn't do any of this thing. He wasn't given the
17 opportunity. On May 11th he was approached with the
18 opportunity to cooperate and he adamantly turned his back on
19 those agents, those agents that are all being characterized
20 now as the villains in this case. Do you think for one
21 minute that these agents came in here and perjured
22 themselves?

23 He talks about the United States. If you want
24 a program of entertainment, CSI, as I asked you about, then
25 turn on the television. If you want good law enforcement,

1 then rely on what was done in this case, because it is good
2 law enforcement and it is accurate, and what is being
3 presented to you is accurate.

4 Think about it. When they went to his house
5 on May 11th, he didn't know, and it was not mentioned to him,
6 about the undercover operation of September 10th. The agents
7 knew; they participated in that. And they also knew about
8 the occurrence unconnected to their activity, the
9 happenstance that occurred because of this officer over here
10 (Indicating) doing his duty. And on September 10th, what is
11 he doing? He's dealing.

12 I heard the date in January when she was
13 caught, or pled guilty, or whatever he's trying to say about
14 it. Did she then conceal these things and make her plan some
15 nine months later? This will be my chance.

16 Some of the arguments prosecutors use, they
17 call it poppycock, and that's what that is. It's not my
18 word, but I've heard it before. And that's what it is. It's
19 poppycock. And that's what he's telling you now, ladies and
20 gentlemen, and he is not telling you what happened.

21 Think about May 11th, and what he did when
22 Jeff Matthews then, as they are exiting the two undercover
23 cars, and Matthews thinks perhaps, well, maybe he's going to
24 come out and maybe he's willing to cooperate; he's cooled
25 down. And Matthews tells that he says the defendant that's

1 -- and I'll have to paraphrase now, but that was for my own
2 usage. He didn't know that they had the information in the
3 undercover operation when he said that on May 10th.

4 Think about the arrest on July 22nd. He
5 didn't know. He knew about the 5.9 grams, and he says that's
6 for my personal distribution. And then think about the
7 courtroom procedure on July 27th. He didn't know about
8 September the 10th. He knows about the 5.9. And he says
9 that's for my personal usage.

10 Inferences from that, ladies and gentlemen, I
11 submit to you are is that he's been dealing long enough and
12 he knows there's a distinction to be made in the law between
13 distribution and possession, and that is why he's making
14 those statements. He thinks he knows -- he knows that he's
15 caught cold by Lieutenant Hayes, so he's trying to minimize
16 what he's facing. I'm just a user. I like it. I was just
17 sitting there on January 22nd in that car just enjoying a
18 nice blunt. And there wasn't evidence about it being laced,
19 but if that's what the defense argument is, being laced with
20 crack, I'm just having a nice smoke.

21 Do you drive out there to have the smoke? He
22 lives in, as described, the house that you saw there on Ninth
23 Street. If he wants to smoke outside, he can go out on the
24 porch there. He's there to distribute. He's there to make
25 money. He doesn't care about the people that are succumbing

1 to that crack, the addiction of crack. That's what he's
2 doing; that's what he did. And that's what's before you,
3 ladies and gentlemen, nothing else.

4 Tina came in with a lot of baggage. He talks
5 about, and in that instruction, and in her sitting in front
6 of you, her plea of guilty regarding that armed robbery. And
7 she says at the point, if he's talking about the gun, she
8 does say, give it up, to the victim. She was not the
9 instigator of the robbery. She was not the mastermind of the
10 robbery. The mastermind of the robbery, her boyfriend, is
11 high on crack, and she says that he's using it. She pled
12 guilty. Under the law, that's there; she's a participant;
13 and she ended up with the goods.

14 It's never been a situation in presenting her
15 and her testimony to you that she was a saint, that she's a
16 candidate for citizen of the year. Snitches are not that.
17 Snitches, as it's referred to by defense, come to Court, and
18 if you see little children like that, they're the ones that
19 are growing up, and hopefully with your verdict we can end up
20 maybe stemming some of this. Sometimes you think it's a
21 losing battle. That's what is your obligation in just a few
22 minutes.

23 If Tina was lying, then you should acquit on
24 that count. Did she secret this two segments, 6.6, somehow
25 upon her person under and without the knowledge of these

1 agents? Once again, poppycock. That operation -- when I
2 opened the argument I used the word "corroboration," and
3 that's what you have there. Did she secret it? Then why in
4 the world did he have to get in his car after he'd met with
5 her -- not get in, but turn around his car and go back up
6 there to the building as you heard the agents, to his home;
7 go in the house and then come back out? To find an empty
8 wrapper that he could take down and give to her, and she
9 could take the stuff that's supposedly secreted upon her
10 person and put it in the wrapper? That's the nonsense that's
11 being presented to you, ladies and gentlemen. It doesn't
12 fit, and what does fit is what's charged in the Indictment.

13 It is sad. There is no question about how sad
14 it is. And you stand tall -- I know this is a patriotic
15 closing here, what I'm going to make, but you represent the
16 United States of America in what you're doing here, and come
17 back and enforce the laws that are trying to put a stop to
18 this curse on our society. It's our country, and it's your
19 country. And thank you.

20 THE COURT: Thank you, Mr. Daly.
21
22
23

24 I certify that the foregoing is a correct transcript
25 from the record of proceedings in the above-entitled matter.

Q-1-06

James E. Robertson
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