

Chapter One

Our Arrest

June 23,1999 started out like any other early summer day on our farm in Hawkins County, Tennessee, with a full slate of chores to be done. The first task of the day was to locate a new calf that had been born a few days previous on the mountain of which I hadn't seen since a few minutes after it's birth. The fact that our cattle were pastured on better than fifty acres, of which half or better was brushy wooded area, made this no small task . Even domestic livestock like cattle are very adept at hiding a baby given adequate terrain in which to do so .I had grown increasingly concerned about the calf the last couple of day having not seen it, or much evidence that it was depleting the milk it's new mother was producing. Coyote's have started to be a concern that can't be overlooked . Sheila , my wife, tells me I'm being an old mother hen that experience should have taught me by now that the calf is merely hidden away and that the cow will bring it out of hiding when she deems the time is right .I still can ill afford to lose a calf due to negligence on my part, accidents happen. I started my search as soon as light was good enough to see and at nine o'clock I had yet to see hide nor hair of the calf. I decided to get help. Andy, our son, was home that mourning and his legs are young and can cover more of this steep, rough ground than mine can and two set of eyes are better than one. When I came down off the mountain that mourning Jackie Lee our neighbor was already tethering the hay we were to pick up off the field when he baled it. In an hour or so the hay will have dried sufficiently for him to start the bailer to running. We have a deal, Jackie and I , we pick the hay up off the field as soon as he bales it for a \$1 a bale. When Jackie starts baling hay the calf search has to desist. Andy hurriedly puts on some clothes and we resume the search . When we get back in the wooded area I spot the cow that has the calf in hiding and in her actions she gives away it's location. She's standing along side the electric fence and her attention is focused on the opposite side of the fence. The calf was laying hidden with it's head tucked low against it's body twenty feet on the wrong side of the fence. This new calf hasn't yet learned what an electric fence is all about and has probably been acquainted with it when his backside touched it as he slid under it. I eased under the fence and picked the motionless calf up and returned it to the right side of the fence. The calf is in sound condition, and after having returned it to it's mother and having seen it nurse, I'm satisfied and ready to haul some hay . Something was about to happen that would bring a sudden halt to the rest of the day's scheduled agenda.

Andy and I walked back out of the hollow, were we found the calf, to the ridge top and decided to take a momentary breather under the old maple tree . The temperature has probably already climbed into the upper eighties on this sunny day and having climbed some steep terrain ourselves I believe I'm about as hot as I'd like to get. The shade of this old tree along with a little breeze that seems to almost always blow on this little ridge top is heaven sent as we set beneath it . We had set there only a couple of minutes when we heard the unmistakable sounds of a helicopter propeller. Andy mentioned that it must be close at hand but the sound was strange, loud yet muffled . Only seconds after Andy's comment the chopper comes up out of the hollow behind us so low overhead that it startles us. The occupants of the chopper obviously saw Andy and I as they passed initially no more than 100 feet from the ridge top. The chopper did an abrupt circle and returned now to hover over us. The object of there attention was quite obviously us. Andy looked at me with a look of great puzzlement and ask what I thought this was all about. I knew for sure this was not a good thing considering the logo under the belly of the craft identified it as what I

knew was county law enforcement. Rural residents in Tennessee in majority are well aware of the grid searches for marijuana conducted each summer by the drug task force. I personally had many times in the past witnessed such searches of our community. Today was different, I had no doubt this chopper had come with a purpose. It came in a direct line and immediately began to circle at very low altitude directly over us as we proceeded down the ridge toward the creek . When Andy and I were walking into the picnic area the chopper was still maintaining it's visual on us, we had traveled over three hundred yards. There altitude had made walking and seeing the ground difficult especially for Andy. Andy's hair was long at the time and the downdraft from the propeller spun his hair into his face. Andy laid his shirt on the picnic table, having shed it do to the heat of the sun, as we walked by. Looking through the trees around the bridge I could see two marked Hawkins county deputy cars on the driveway that comes down to the creek. Sheila was having a talk with the officers as we approached. As we came upon the little party one of the officers spoke to me and ask if we owned property here . I told him that we did. He stated that there chopper spotter had reported having found marijuana on the mountain. By this time the occupants of the chopper had refocused their attentions and were now behind us 100 + yards to our right. They hovered intently at an altitude of less than 100 feet. The officer asking the questions ask if I would consent to a search of our land. I granted him permission to search our land but advised him that the land the chopper now hovered over was not ours. I suggested that if his intention was to search that land that he would need to acquire permission to search from Jack Price who owned the land they now flew over. The officer, who had introduced himself as officer Lawson, ask if I would consent to a search of our residence .This incident was only a few minutes into what would eventually take years of our lives to culminate and already it had become very unsettling. Hearing the transmissions from the chopper occupants on the radio of the cruiser officer Lawson had arrived in, and the questions we were being ask, made it clear that they had no concerns as to who's land the marijuana was actually on. The chopper was not conducting a grid search when it arrived and the officer's, I had no doubts, knew there destination long before they arrived here on this day. I stated as much to officer Lawson and told him I would not consent to a search of our residence. He had in no way provided probable cause to even ask consent for a search of our residence. He now advised us that we were being detained until a search warrant could be obtained. Sheila ask if we were under arrest to which the officer replied we were not. Now other marked county vehicles began to arrive. Officer's, although not in possession of a search warrant, insisted that Sheila accompany them in what they claimed was a search of our residence to make sure no other occupant that could possibly be armed or cause them harm was present. What transpired after they entered the residence was a search. Sheila protested when the officers began to open cabinet doors and open drawers which could not possibly harbor anyone. Andy and I were surrounded by several uniformed officers out in the yard. We watched as the chopper circled and hovered over neighboring property and called out instructions to officers on the ground who had now joined the party. Hours passed awaiting presentment of a warrant while we were detained in the hot sun while the officers took turns eating and drinking in the shade. As time progressed our dispositions eroded, being held without provocation and worse still treated in a manner of which I personally would not have treated a dog. How we were treated on that day was witnessed by more than one person neutral and detached from the confrontation. The actions of the officers began to anger and upset our neighbors. Jackie, who had continued the task at hand of tethering hay in the field which adjoined our yard, showed his displeasure when two of the officers who had surrounded us infringed over the line into the edge of the hayfield. Jackie came

around the field behind them and whipped the hay with the tether and slung it on the backs of their legs in obvious displeasure. When the search warrant finally arrived tempers had begun to escalate. We didn't actually see the warrant we merely were told there was a warrant. Although normally calm in demeanor Sheila took offense at the rudeness of the officer. The officer immediately got in her face poking her in the chest with his finger and told her that he was going to charge her with marijuana, drugs and anything else he could come up with; which only intensified her anger. She had not seen a search warrant and told him that he had no warrant and to keep his hands off her. At this point two officers took Sheila by the arms twisting them in a manner that made her bend over in pain. She screamed at them and told them they were nothing but "a bunch of skin head nazi's". They walked her, with arms twisted, to a cruiser and stuffed her in. Judy Williams, our next door neighbor, was outside in her yard only several feet away when all this took place. Sheila's anger had progressed to the point of rage with the manner in which she was being treated and tears streamed down her face. Judy, being a good friend as well as our neighbor, began to cry as well. Attempting to restrain my emotions in a helpless situation became almost overwhelming. Something about being bullied by more than a half dozen people without provocation I assure will have that effect. I took a deep breath and ask the plain clothed man that had presented the warrant if I might join Sheila in the cruiser to see she was not seriously hurt and attempt to calm her down. Andy and I were placed in the cruiser with Sheila. In the cruiser we could hear all the transmissions between the officers conducting the search at different locations on the outside and in the home as well. Sheila told the officer in the vehicle with us that there was a serious bee's nest in our outbuilding which they were about to undertake searching. The warning went unheeded and within moments of there accent upon the building one of the officers was stung. We were very sympathetic of his discomfort of course. **The officer in the cruiser told us that they had known about the marijuana for some time and were undecided about whether to set up surveillance.** In time the reason they choose not to, in my opinion, would become evident. Sheila told the officer that nothing they had done on this day was legal including there accent on private property with a helicopter at an altitude of less than 100 feet when they arrived and that she had taken pictures that would show how low they were. The pictures would also indicate, by landmarks in those photographs, that the property over which the helicopter hovered was not ours when they were directing the ground crew to the locations of the marijuana. After a search of an hour and a half in our home the officer who said they had the warrant came and escorted me from the cruiser to an unmarked vehicle. He stated that he'd found a roach, butt of a marijuana cigarette, on a clip under the bed in our son's bedroom and that was enough evidence to charge him with simple possession. Detective Collier, the plain clothed man had introduced himself as, now presented me with a single piece of paper he ask that I read and sign. The paper was an affidavit wavier that if signed waved my constitutional rights. Det. Collier said we could resolve some issues if I'd answer a few questions and sign the wavier. I refused the offer and stated Andy had always been a good son, never in any trouble, and that not living life with blinders on I imagined three-quarters of the teenagers in the county could have at some point in time have been charged with possession of marijuana. Det. Collier said that was probably true put that **should I decline to sign the wavier he could make it worse on us. I had been bullied and watched helplessly while Sheila was assaulted physically and was in no mood to strike a bargain with the ring leader of the group. Simple possession for a young man with no criminal history was not a threat that would forge any resolve to any issues I saw at hand. I knew that a half dozen officers had ransacked our home for an hour and a half with no**

provocation and my mood wasn't improving with threats of what Det. Collier could or would do should I not relinquish my rights. I told him to just go ahead and do his worst. I was placed back in the cruiser and Det. Collier went back in side our home. After another two hour search Det. Collier returned and told us we were under arrest. He said we all were charged with possession of drug paraphernalia, possession of marijuana for resale, and manufacturing marijuana. He said that he'd probably tack on additional charges but for now we'd be transported to the jail and so we were. Judy, our neighbor, promised she'd call family and let them know we'd been placed under arrest before we were transported from our residence. Andy was seventeen at the time so when we arrived at the jail after we were processed and locked up Andy was transported to a juvenile facility. Having never been arrested in my life or even questioned or suspected of committing a crime this day was an awakening for me about crime and the so called justice system. After being locked up for a few hours I was finally permitted to make my one phone call. I called my father who had already received a call from an aunt telling him of our arrest. I ask if he could contact a bail bondsman and post bail for us. He said that he would and ask what our bail had been set at. Since the phone I was permitted to make the call on was right in front of the booking desk I turned and ask the female officer at the desk what our bound was. She turned and ask another officer sitting at a desk behind her what the charges were and having had that established stated our bound would be five thousand dollars each for Sheila and I. I conveyed that to Dad and he said it wouldn't be a problem and that he would be there shortly. I told the female officer who had seemed to show some concern that I had someone coming to post bond. The officer at the desk behind her told me to hold on for a moment. He picked up the speaker phone on his desk and after a brief conversation with another party, who was apparently listening to the proceedings, said that our bond was being changed. To what amount I ask? Twenty thousand dollars each he replied . Has your Daddy got four thousand dollars boy? His response temporarily left me speechless. Dad said son what's going on? I told him that our bond had now been upped to twenty thousand each. Dad said he'd attempt to locate a bail bondsman and come as soon as he could. It seemed at this point the surprises this day had brought might never end. I had never in thirty-nine years ever once had to call upon someone to bail me out of a scrape. I had been independent since I was eighteen. Things which had happened in my youth, like my mothers tragic suicide when I was fourteen, had shortened my childhood and sped up my maturity. Dad raised all his children , my two sister and I, to be self supporting and responsible for ourselves much to his credit. I find it essential to say that you can pick your friends, you can choose the people you don't like but by the grace of God your born to your parents. In that I consider my greatest blessing of life. The people I was born to , not just my Mom and Dad, were the best. I think the word that most best describes them is decent. They were decent in the purest since of the word. Dad came late that night, June 23, 1999 and posted our bond. Over the next five plus years he never once failed to support me and give me strength. Without him none of the fight we waged against the Federal government would have been possible and I'm not sure that myself or anyone else could be worthy of what Dad endured with his only son in the ordeal that would ensue.

That night was one of the longest in our lives. Although Sheila and I would be in our home to spend what remained of the night Andy would not. He had been transported to a juvenile facility and we would not be able to arrange posting a bond for him till the following day. When we arrived home that night our home was a wreck. Everything that had been on the shelves in the walk-in closet in our bedroom was now on the bed, drawers pulled out and dumped were they landed . Sheila had a pet bird that she placed outside the front door on a post during the day,

designed for that purpose. The bird had been left outside with no concern for it's welfare. Such was the case of our dog , which was left in our home. Our home was left unsecured, the doors unlocked. The most disturbing of all was all the private property taken which exceeded the scope of the search warrant. Sheila and I, having never dealt with law enforcement invasion of our home, could not have fathomed what had transpired. The seizure list, left on the coffee table in our living room, contained an itemized list of what was taken. After the initial hour and a half search of our home by several officers had uncovered only a minimal amount of marijuana, the roach on a clip under Andy's bed, the seizure list contained ten different items alleged to contain marijuana. Of course all of these additional items were allegedly found by Det. Collier after his visit with me in between the two searches and his statement about making it worse on us should I not sign the waiver or answer his questions. The list also contained Sheila's K-1000 35mm Pentax camera, a box which contained 90 to 100 perfect Indian arrowheads, a Stihl chainsaw, and seven firearms ;of which all were long guns and in a gun cabinet at the time they were removed from our home. The arrowheads were in a box in our living room, each individually packaged in small zip-lock bags to prevent them being chipped or broken. The seizure list described them only as a "box of baggies found in livingroom under fishtank". Although no mention was made of the arrowheads themselves the list contained as item #4 "black film canister with seeds (marijuana)". We could not imagine Det. Collier looked in a 35mm non-transparent film cannister and alleged he found marijuana seed and didn't look in baggies found in a shoe box sized box with a lid and see arrowheads when the items described in the search warrant to be seized were drugs, marijuana , paraphernalia . The reason Det. Collier took the camera neither of us had any doubts, the fact Sheila had told the officer in the cruiser about the pictures she had taken. I guess it was just our misfortune that she had been photographing her flowers when the helicopter arrived that mourning and made the mistake of telling an officer about the pictures she had taken. Sheila and I did have Marijuana in our home, never once did we deny that fact. The marijuana we had in our home was all located in one location, our bedroom in a yellow box. It was not spread out through our home in ten different locations and in containers Det. Collier alleged it was on the seizure list. As time past and two separate jury trials took place the truth would be revealed . I believe that the transcripts, documents filed in the case and the evidence; both material and in the form of direct testimony would bare that out. It would not prevent the sorrow and grief put upon us or our families, and friends.. The federal government recognizes that seventy percent of the public uses some kind of mood altering substance yet the madness that is federal drug policy continues. I know your out there, we grew up together. Have no doubt that what happened to us in United States of America vs. Carpenter could happen to you.

The day after our arrest we set about locating Andy and posting a bond on his behalf. We were told an arraignment hearing had been set in the juvenile court at which time a bond would be established. The previous night had been spent not knowing if Andy had any idea of what was transpiring. The thoughts in our minds were that somewhere our son was locked up with know idea of what plight lay before him. When Andy was brought into the courtroom that mourning neither he nor us could hold back the tears of relief in seeing each other. The state petitioned the Court to charge Andy as an adult. The court denied that motion stating that he had no previous record. The state also moved the Court to take custody of Andy from us. There, in our opinion, was more to this hostility toward Andy on the part of the state than the Court could have conceived but now was not the time to address those issues. The Court also denied that motion citing the fact that neither of his parents had a criminal history and it was unreasonable to do so

merely on accusation. I am still grateful to the juvenile judge Herb Holcomb for the decisions he made on that day. In the many experiences we endured in the courts across the land Judge Holcomb would be, in my opinion, one of the few who maintained his integrity in making decisions as dictated by the position he held. Judges are supposed to be neutral and detached, neither for the prosecution nor the defense. As this story unfolds remember that fact and see if in your opinion that holds true in any of the nations Federal Courts in which we would appear. Andy's bond was established at \$10,000. We were able to post a bond for him by writing a check on a credit card I had recently acquired. At the time of our arrest I had \$7 in my pocket and \$30 in our checking account. No one ever got rich farming that I knew. It has to be a love for a job and the land. Although I had worked a skilled labor job, in the electronics industry, for almost two decades my lifelong ambition was to follow in the footsteps of my grandparents. They were tenant farmers all their lives that had no false sense of priority. They taught me well in their actions more than their words. As long as you take pride in what you do, have a roof over your head, food to feed anyone who walks through your door hungry, and the love and respect of a family your rich. The only thing that separated me from them was I, in having watched them grow to old to farm the land and having to move when they became to frail to make their crops, was determined that we'd own the land we farmed. This fate which had befallen us could not have come at a worse time financially. In June all your money has been devoured in cost to start a crop. We did have a young herd of cattle, though it was relatively small in number, that was producing calves for the first time. The truck garden we grew to sale vegetables was still several days from being mature enough to market. The burley tobacco crop, over three acres in size, was off to a good start but months away from the market. Somehow I had to find a way to hire counsel to represent us. There were many lessons to be learned in a field of which I had no knowledge. The games were about to begin. We approached local attorney Mark Stapleton about representing Andy. We were able to retain his services by writing a second check, this one in the amount of \$500, on the credit card and giving him our farm tractor for the remainder of the balance he required. In the discussion of our case with Att. Stapleton about the case I stated that our accusers were liars and thieves and I'll never forget his response. He said we'd never here him accuse them of being honest men. Mark Stapleton was the only attorney I would meet through this whole shitty, stinking mess that I'd give a withering piss for. The majority, in my opinion, are thieves and scoundrels. That includes the one we hired to represent us in state court. We struck a deal with Attorney Blackburn Baird to represent us in state court. The deal was we'd sale our cattle to pay him the sum of \$5,000. Should the cattle not bring that amount, the market was extremely weak at the time, I'd sale enough vegetables to pay the balance. As the weeks would pass into months we'd watch most everything we'd worked for honestly evaporate like water on hot pavement. A date was established for a trial in state court but as thing played out it never happened.

That afternoon when we returned home I went to check on our cattle and found that the third judicial task force, our accusers, had knocked down our fences and left them on the ground with no respect for the welfare of our cattle. With each passing day my apathy would grow for these people. I can overlook someone who's lacks intelligence but maliciousness is something I despise and these people were steeped in it. We were told by a friend, who also was an employee of a store in the community, that officers had come in the store and bragged about the amount of marijuana found in our home. They'd said it would take a day to carry it all out. Tim Willams, husband of our next door neighbor Judy, had witnessed one of the officers carrying plants toward the back door of our residence. When the officer glanced up and saw Tim watching him he

retreated away from our home to one of the county vehicles parked in the driveway. Tim said he'd opened the trunk and mulled around apparently hoping Tim would lose interest. Tim set patiently and watched. After some period of time the officer lost patience, closed the trunk, and took the plants back across the yard and into our home. Tim's anger at these actions only increased as he watched the officers take our guns and other property from the home. Jackie was still working in the field adjacent to both our yard and Tim's. He saw Tim lose control and start to verbally voice his displeasure for the actions of the officers. Jackie told me that Tim's actions surprised him. He said he'd warned Tim not to leave his yard and venture into our's in protest. Jackie had quickly thought Tim might end up accompanying us at the County jail should his emotions get the best of him.

Everyday now would become a struggle of will and determination. The next morning I went to the mountaintop at daylight on our farm and prayed that God would give me the strength and the wisdom to face my accusers and not break under their might or bulk. That prayer would be answered by the strength given me by my family, friends, neighbors, and even people I didn't know or was yet to meet a thousand times in the next five years. My first advice to anyone who finds themselves in a position where you know not what to do is pray, there is immeasurable power in it. Somehow we had to find a way to satisfy our financial obligation to Att. Baird and pay the utilities. It would not be easy. Saturday would be cow sale time and from there I wasn't sure what to do next other than work daylight till dark and trust where there's a will there's a way. Saturday we did sell a number of our cattle and with them a part of ourselves. Establishing this herd, though it was small, took great sacrifice on our part. The loss of the tractor and now the beginning of the cattle sell off signaled a spiraling effect like that of water being sucked down a drain. The hopes of maintaining ourselves on the farm were being sucked from us no matter the outcome of our court battle. Proving your innocent will not restore everything lost in doing so. I had raised these cattle from calves and selling them was like selling pets. I could not have placed a price on them emotionally.

We had watched what we believed to be the majority of the ground search and as I stated earlier, knew the marijuana was not on our land. When we read the affidavit submitted for the search warrant it was obtained on false pretense. The affidavit, submitted and signed by Captain Ronnie Lawson, gave directions to our home and continued on as follows:

I further make oath that my reasons for believing said Lonnie Carpenter alias is unlawfully keeping or controlling said drugs, marijuana, para. Is set forth in the following affidavit: On June 23, 1999 at approx. 12:30 P.M. helicopter pilot Lt. Bob Crumley was conducting an aerial search of Hawkins Co. when he saw flying over the above described property he saw numerous marijuana plants growing near the residence.

Upon information I received from Lt. Crumley there is a road connecting the above described residence to the marijuana plants. Having personnel knowledge that Lt. Crumley is certified in the identification of marijuana I feel there is probable cause to search the said residence and property and seize any illegal contraband found. Wherefore as such officer acting in performance of my duties in the premises I pray that the Court issue a warrant authorizing the search of the person of said Lonnie Carpenter and the premises herein described for said drugs-marijuana-para. Described above, and that such search be made either by day or night.

After having read the affidavit submitted for the warrant we decided we would need irrefutable proof that what was

stated in the warrant was false. We decided what better proof than a video shot starting at our home and ending at the old burned out home site located at the end of the road of which they spoke. The whole front half of our farm was either in row crops or pasture land grazed clean of all eatable plant life by our cattle in what had been a dry spring. Although we didn't own a camcorder we realized that the time to start compiling our would be evidence disputing the affidavit was now We borrowed a camcorder and on June 28 made a film starting at the back door of our residence. The film showed the stone walkway that went from our back steps to the road which went along the border of our land and that of Jackie Lee. From there the road ran down along the edge of our truck garden between the tobacco patches to the pastures border, which was fenced with an electric charger. The film showed me loosen the insulator on the fence post that held the hot wire, slide it down the post, and cross the fence into the closely grazed pasture. As the film continued to roll I continued on down the road to the creek crossed the bridge into our picnic area, which had been engulfed into the pasture area as necessitated by need for additional grass land for our hungry cattle during this unusually dry spring; continued on through the picnic area some seventy-five to one hundred yards to the remnants of the home that had burned more than twenty years prior. Standing at the old home site I scanned the hollow on past it and the surrounding hills to show just how close to the ground our cattle had grazed the landscape. I had no doubts that no one would believe, having viewed this film, that there could have been marijuana growing on the front half of our farm let alone near the residence. On this film I also scanned to the fence border to show what a jungle lay on the other side of the fence, adjoining properties. The marijuana , having watched the overflight of the helicopter, we knew was at least one hundred yards over on the adjoining properties. At that time we could not have dreamed than evidence held by the government would clearly illustrate what we knew and what the film depicted.

The people came and left groceries on our doorstep when we were in the fields. They came and gave there vote of confidence as to our character. They came and proclaimed their belief in our innocense. It left us at times with lumps in our throats enable to express our gratitude sufficiently. When the people came so did the H.C.S.D, they came for an entirely different reason. They came to see who was visiting the Carpenter's and take their tag numbers. They did it without a care that as the past it left no doubt what they were doing. They'd slow down and almost stop in the road to record the information they sought. Then the helicopter would show up at our visitors residence. Never did they show any regard to privacy or the Fourth Amendment. They had no worries about anyone questioning that they always broke Federal aviation law. Hell their the government who's going to do anything about it.

The cattle brought only a fraction of the \$5,000 I'd committed to pay Att. Baird. Everyday when I awoke the uncertainty of what lay ahead was foremost on my mind. Although we were never shown a single marijuana plant we'd been charged with the manufacture of 134 which was the best I can recall a class B felony, a very serious offense. One day when I met with Att. Stapleton he told me that one of the detectives with the Hawkins County Sheriff's department had told him they had pictures of Andy and I tending the Marijuana plants. This accusation made me furious. I told him to tell the detective to show the pictures of an act that never happened to Judge Holcomb when Andy's upcoming Court date come. Things happen much quicker in Juvenile Court. I'm sure Att. Stapleton thought they had the pictures. He said Lonnie they could have flown in at high altitude and have taken pictures. I replied just tell him what I said. The following day he called and said Lonnie your going to be mad. Why I ask? **Because you were telling the**

truth and now that you've called their bluff they wish to make a deal and drop the charges against Andy if he's willing to plead guilty to simple possession. Att. Stapleton also discussed the idea with us that it might be best, given the previous actions of the state, to consider relinquishing custody of Andy to another member of our family. The reason he thought we should consider this action was his fear that should the state court trial take place before Andy's eighteenth birthday the court might make Andy a ward of the state and God forbid who knew where they might place him. Just pondering that thought gutted Sheila and I. We had taken custody of my nephew for almost a year when he'd gotten in a little scrape a few years previous because the state had already made it clear their intentions to send him to a juvenile detention center. It seemed each passing week brought a new source of grief. Given Att. Stapleton was and would be the only attorney I'd ever come to trust in these matters we heeded his advice with heavy hearts. Andy pled guilty to the only act he was truly guilty of and at the same hearing before the juvenile court we relinquished custody of him to my sister. This day as many others throughout our ordeal I had to remind myself that which does not kill us makes us stronger. As I stood with Sheila and watched the tears trickle down her face I saw compassion at least on the face of Judge Holcomb.

A few days later Att. Stapleton told me that he had heard that the state was requesting the Federal government to consider the case for possible indictment. Along about the same time a friend and neighbor told Sheila that she knew someone who had done some work for the Sheriff of Hawkins County on his land which was only a mile from our home. The man told Jerry that he had bush hogged the land behind Sheriff Clevengers home and that the Sheriff had told him not to bush hog around the pond or in that area. Out of curiosity the man said he'd ventured over to the pond and had seen what he believed to be marijuana growing behind the dam of the pond. When Sheila relayed what Jerry had voiced to her I thought this might be a means of shedding a little light on the pot that called the kettle black. The Sheriff passed our house most every day yet when he made his original statement to the press he stated facts that he should have known were lies, how long we had lived in the community, as well as our family ties in the community. Long before our arrest we had heard much gossip about the Sheriff and the sheriff's department turning their heads when it came to illegal acts on the part of his next door neighbor. I told Sheila that should the marijuana actually be where this man said it was it would be very easy to verify. We had friends who's land adjoined the Sheriff's and I might just have a little look for myself. That prospect scared Sheila for my safety's sake. A full moon was only a couple of days away and I was sure I could distinguish in the moonlight whether what the man had seen was marijuana. He said that what he'd seen had been cultivated. Sheila expressed to me she thought what I had in mind was a really bad idea. I was so angry at the time my thought may have not been totally rational I have admit reflecting back now. Sheila knowing how hard headed I could be decided to take matters into her own hands. The next day, while I was working in the fields, Sheila went to the east Tennessee office of the Federal Bureau of Investigation and told an employee that it was our contention that our arrest was brought about by an altercation between us and the family of the Sheriff and had nothing to do with the manufacture of marijuana. He ask Sheila if she'd be surprised to know the day we were arrested he had been in the Sheriff's office.

CHAPTER 2 THE INDICTMENT

When Sheila came home that evening and told me about the visit she'd made I anticipated a Federal indictment shortly, given what Att. Stapleton had already divulged to us. The visit Sheila made that day was out of concern for me. That is, and always has been Sheila's nature, protect your family if they seem to be considering actions that might put them in peril. Two days after Sheila's visit to the F.B.I. office we received a call. Att. Stapleton said he needed us to pay a visit to his office. When we arrived at Att. Stapleton's office he told us he believed that a Federal Indictment had been handed down. We ask the only question we knew to ask what should we do? Att. Stapleton made a call for confirmation that there was an indictment and indeed there was. Att. Stapleton advised us that we should go on our own and surrender ourselves at The Federal Courthouse in Greeneville, Tennessee the next time the courthouse doors opened. When the courthouse opened for business on Monday morning, July 30, 1999 we were there. We introduced ourselves to the security officer at the desk and told him that we were of the understanding that a Federal indictment had been handed down naming us as the defendant's. The officer told us he'd attempt to confirm what we'd told him. After several minutes passed with the officer making calls attempting to locate confirmation he spoke to us. He said he had been unable to produce an answer and could we maybe go have breakfast and come back. The visit later that morning still didn't produce an answer and we were told to come back after lunch. When we returned after lunch we were immediately told that indeed there was an indictment. A warrant had been located for both of us. We entered the courthouse and became Federal case no. 2:99-CR-45 . We were booked, fingerprinted and everything else required by Federal law. I was a little numb that day and the order in which things came I don't exactly recall. Count 1 of the indictment stated : The Grand Jury charges that beginning on or about May1,1999, and continuing to on or about June 23,1999, in the Eastern District of Tennessee and elsewhere, the defendants, LONNIE D. CARPENTER and SHEILA J. CARPENTER, did knowingly, intentionally, and without authority manufacture and attempt to manufacture a quantity of a mixture and substance containing marijuana, a Schedule I , controlled substance.

FORFEITURE

As a result of the defendants LONNIE D. CARPENTER,s unlawful manufacture of Marijuana, a Schedule I, controlled substance, as set forth in the above paragraph, and upon his conviction of the same, the defendant, LONNIE D. CARPENTER, shall forfeit to the United States any property used and intended to be used in any manner or part, to commit, and to facilitate the commission of a violation of Title 21, U.S.C § 841 (a)(1); and any property constituting or derived from any proceeds obtained directly or indirectly by the defendant, LONNIE D. CARPENTER, as a result of the manufacture and sale of marijuana, a Schedule I, controlled substance, that is, including but not limited to:

The article under forfeiture went on to call out everything that's in the deed of the property sought to be confiscated by the government should we be convicted . Which constituted home, land, and anything permanently attached thereto.

COUNT 2

The Grand Jury further charges that beginning on or about May 1, 1999, and continuing to on or about June 23, 1999, in the Eastern District of Tennessee, and elsewhere, the defendants, LONNIE D. CARPENTER and SHEILA J. CARPENTER, who were at least eighteen years of age, did unlawfully employ, hire, use, persuade, induce, entice, and coerce persons under eighteen years of age; to manufacture and attempt to manufacture a quantity of a mixture and substance containing marijuana, a Schedule I, controlled substance.

Count 2 baffled at least me when Sheila and I first read it. I couldn't imagine what rabbit the government might pull out of a hat to say we'd hired any kid's to help us. The minor of which they spoke was Andy. We were back to square one on Andy's involvement. We were soon to learn just how serious the situation was.

An appointment was established with Jennifer Bible. Mrs. Bible assisted us in filling out a financial disclosure and I believe it was she who also arranged the initial appearance hearing before the Magistrate Judge Dennis H. Inman. Mrs. Bible would be our pre-trial probation officer and giving credit to Mrs. Bible she was as accommodating, well mannered an employee as we would come to meet within the Federal Justice System.

The hearing was conducted and during the hearing the Court informed us that attorney's would be appointed, set an O.R. (Own Recognizance) bond, set a date for an arraignment hearing of 8/3/99 and gave an order setting conditions of release on the O.R. bond. Magistrate Inman read the instruction aloud in the court. The instruction of the court within it had a string of crimes we were instructed not to commit. As we heard the acts in the string which included, and were not limited to, bank robbery and assault Sheila shook her head and smiled. Judge Inman loudly ask her if she thought there was something humorous about the situation we were in. She replied no, that she just couldn't imagine herself committing one of those crimes. I found the Court's sense of humor very one sided. It seemed to me as time past and we spent many hours in Courtrooms the Courts could pull a joke but they couldn't take one. I come to consider Magistrate Inman to be a very poor sport indeed.

On 7/30/99 the protective order came down. It spelled out in detail all the things we could not do concerning possession of our property or to diminish the value of the property. Sheila and I were out of straws. Although we had paid Att. Baird a substantial amount of money, given it was all we had left of value other than the land, chose not to even go to State Court with us on the day the hearing was held in which the Court dropped the state charges in light of the Federal Indictment. The calves that would have helped me pay the land payment and utilities were gone along with all the other cattle except two, the cattle trailer wouldn't hold those the last trip to market we'd made. June had been very dry. Our truck garden was slow to make very much produce early on, and had it not been for a good wild blackberry crop on and around the end of Short Mountain where we lived that summer basic sustenance would have been a struggle. I sold sixty plus gallons at \$8 a gallon. If you've ever picked wild blackberries around the edges of the jungles were they routinely exist you well know the money I received was well earned. If he chiggers don't get you the bee's and snakes get a shot at you as well but the good lord provides and that summer just got better with age. Sheila and Andy helped me in the tobacco crop when I

needed it and the work Sheila did in regard to the case and options we might consider helped ease the concern that gripped us most. With the entry of the Order of protection we would now be relegated to council afforded us by the enemy or self representation merely on accusation.

The Federal Court will not appoint one attorney to represent two individuals, even if man and wife, in the Court proceedings. The reason we were told this is rule is because it could present a conflict of interest for the parties. I'm of the personnel opinion the conflict of interest is on the part of the government. Sheila was appointed Att. William L. Ricker and I was appointed Att. Jerry W. Laughlin. We each established appointments with our respective attorney's prior to the arraignment hearing. The arraignment hearing was held on 8/3/99. At the start of the hearing the attorney for the government stood, when called upon by the Court, and announced the charges on of each indictment. He stated that the crime of manufacture of marijuana carried a sentence of 5 to 40 years and that count 2 of the indictment, hiring or enlisting the help of a minor in the manufacture of marijuana, carried a penalty of 5 to 80 years. My heart pounded and I'm sure my mouth probably inadvertently fell open. We were facing a possible sentence of 10 to 120 years, I was dumbfounded. We each entered a not guilty plea, dates for the motion hearing, the trial, and plea negotiation cutoffs were set. We drove home in shock.

On 8/4/99 the Court issued the Order on Discovery. This is an extremely important Order and within it are your rights pertaining to evidence the government would intend to use against us. For example any statement you might have made to law enforcement, any scientific test, or mental evaluation the government might make known they intend to use at trial. It instructs to you that you also must present to the government any evidence that you might intend to use in your defense. Issues covered in this Order would eventually become essential elements in our defense. After having received the Order on discovery Att. Laughlin made a request for discovery and inspection on my part. He advised me that I would be permitted to view the discovery also. A date was established for us, both Sheila and I, to view the material evidence held against us. We were to meet our attorney's at the Hawkin's County Sheriff's Department (H.C.S.D.) on **Sept. 1** Sheila and I arrived early on the predesignated date to the H.C.S.D. We had discussed the seizure list with our attorney's previous to that day telling each about the items they had taken like the arrowheads, and the camera and ask how either could be misconstrued as items called out in the seizure list to be seized. I didn't believe that Att. Laughlin thought for one second they had taken the arrowheads. I myself had serious concerns that I'd never see any of them again. They weren't listed on the list, only the box which contained them and two large fossil stones that accompanied them in the box. Our attorney's arrived and told us on the steps outside the jail that after arranging the viewing they would return to get us so that we might all view the evidence together. After a lengthy wait our attorney came back and told us they had viewed the evidence themselves but since the viewing room was closet sized they had not felt the need to return, as they had promised, and escort us to the viewing as well. What the attorney's said they had viewed was in conflict with what we knew that had actually been taken from our home. Att. Laughlin stated that he'd seen my arrowheads, taken though not inventoried, and in describing the containers they were in gave a very detailed description as to how they were in baggies of a fold top nature as was common to the packaging of marijuana. I knew if what he had described were true that the containers in which the arrowheads left our home were not the containers they were now in. There were other discrepancies about items taken but none more glaring than the arrowheads. The arrowheads were in little plastic zip lock containers with a red zip lock top and a white logo "Floss Away". These were containers that had originally held embroidery thread and were very

distinguishable from the type of bags Att. Laughlin described.. We were not pleased in the least that we'd been promised that we'd see the evidence and had that promise broken. Having studied the canons of ethics that attorney's are suppose to adhere to this, like some of the actions of Att. Baird, was not conducive to maintaining trust of the client. We, having fully read and understood the Order on Discovery, knew we had a right to be there when the view of the discovery occurred.

Sheila was so distraught about the events having taken place she made and posted signs in our yard in protest of the governments actions. Within days of having placed the signs in the yard a white truck stopped in front of our house and the occupants of the vehicle, when confronted by our son Andy, the only person home at the time; ask just what the hell we meant in the messages proclaimed in the signs? Andy told them it wasn't any of there business what we placed on private property and they were trespassing and ask that they leave. When we got home Andy was still a little rattled by the confrontation. As to whom these two men were Andy encountered I could only guess. A couple of days after that encounter, while I was working in the tobacco fields on a neighboring farm, Sheila had a similar ; but much more threatening and dangerous confrontation with another trespasser. On that afternoon, **September 6,1999**, she was in our home when our dog alarmed her of a visitor. Sheila knew from our dogs bark there was someone on the premises. She stepped to the door and saw a man with his upper body in the cab of our pickup truck obviously searching for something. The man stepped back from the truck at the approach of the barking dog. Sheila spoke to Destiny, our dog, to tell him to hold and heel. She then spoke to the man, telling him the dog would not bite. The man then pulled a pistol and shot into the yard in Sheila's general direction. The reaction he received on Sheila's part I'm sure was a surprise to the intruder with the gun. Andy's confrontation still fresh on her mind, and the anger brought about by it still not having totally subsided, she started toward the gunman. He quickly retreated which I believe was his best option. Sheila has the heart of a lion and that day and many to come over the next five plus years she showed it. Judy, our next door neighbor, had heard the shot. When Sheila questioned her she told Sheila that she had been on her front porch and had not witnessed the intruder pass which meant he came and went in the same direction. Within thirty minutes of the confrontation I came home from the field and when told what had happened immediately set about attempting to run down the intruder. I got in our car and went back toward the four-lane, the direction in which the man had fled in hopes I might catch him afoot. My blood began to boil. Fortunately for him or me, I'm not sure which, he had vanished. No on at the store, which set at the intersection of the four-lane and the road on which we lived had seen the man. Someone told me a few days later that he had seen the man that afternoon being picked up by a white truck on Brewer Lane. Brewer Lane was between our residence and the four-lane. The encounter took place in broad daylight so Sheila was able to get a very good description of the man. From the notes she took that day : **Shot fired in the front yard with me in it, white male, gray hair, approximate age forty,160 to 180 pounds 5 feet 10 inches to 6 feet in height, mint green shirt, dress pants, upper middle-class. Sheila said that she did not believe this man was a transient**, neither did I given the description. The intruder had an agenda . We did the only thing we knew to do. We called the H.C.S.D. and filed a formal report. Since we were struggling to afford the essential elements of life we had no phone. We went out to the store and made the call on a pay phone .**Sheila was told to wait at the store, they would not come to our home.** The officers sent to respond were two of the same officers present at our home on June 23,1999. They arrived in separate vehicles and pulled into the store parking lot, stopped and had a brief conversation, before they came on up to where we stood and spoke. Sheila gave them the details

of the confrontation and they filled out the report. I myself thought that it was like reporting the theft of a chicken to the fox but we both realized the necessity of having a record of the confrontation. Although there was a similar incident in Hawkins county about the same time that warranted an article in the local paper, The Rogersville Review, and a subsequent investigation the altercation Sheila had that day drew no such publicity. We were left to only wonder why.

On **September 10 we began a paper trial**, which we have maintained throughout the course of our case within the Federal Courts, by sending Att. Laughlin and Att. Ricker certified letters with return receipts. In each of these letters a request to have a second appointment made to view the evidence was made. I also ask Att. Laughlin when we might be expected to comply with the Order and present the evidence we intended to introduce. In time we came to realize how important documentation is, and was, when you deal with any officer or employee of any law office or court. No extreme can be reached in making, copying, or keeping every document involved in your case. Certified mail expense soon would become an unexpected burden but worth every penny we spent. Certified letters will get results. Our experience was if you didn't have some type of undisputable evidence that a particular correspondence took place, it didn't. We also found that you needed a transcript of every proceeding that takes place in the court no matter how insignificant it might seem. There was much to be learned, we had only just begun our education on the level of Federal Justice. Att. Laughlin wrote a letter requesting the second appointment to view the discovery soon after he received my letter. That letter read as follow:

Dear Detective Gibson :

I need to bring my client, Lonnie Carpenter, to your office at 10:00 a.m. on Wednesday, September 22, 1999, in order to permit him to inspect the items of evidence in this case. While I realize that you permitted me and Mr. Ricker, Ms. Carpenter's attorney, to inspect those items a few days ago, I find that I need for my client to also inspect the same.

If by that time you have been able to copy for me the videotape, and make color copies of the photographs for me, I am confident that it will take no more than **15** minutes for my client to inspect the remaining items of evidence there.

Very truly yours,
Jerry W. Laughlin

Att. Laughlin was not pleased about the position in which I had put him and made that clear in comments he made prior to the letter I wrote requesting the second appointment. The primary reason we made the request in the manner we did was because we felt the opportunity would be lost should we not pursue it in that manner. We believed our verbal request would be ignored. Given the items the attorney's described were foreign to us we believed evidence tampering had occurred. After the broken promise, and the attitude of our attorney's when we called them on the issue, trust immediately began to erode. I wondered if the way Att. Laughlin ended the letter to Det. Gibson, "Very truly yours", wasn't true and not just a matter of being cordial. We realized that we should make ourselves more knowledgeable about our rights and Federal law. We took a day away from the ever pressing workload of farming and set about finding some literature on the subject matter. We visited some book stores in our immediate area and were unable to acquire what we were looking for. Someone suggested the University of Tennessee law library or there student bookstore. We went there and with some assistance acquired a companions set of books,

Tennessee Rules of Court and Federal Rules of Court. We also purchased an item made in form like a brochure. It was published by Bar Charts, Inc. and titled AMERICA'S #1 LEGAL REFERENCE CHART, CRIMINAL PROCEDURE. We were about to awaken. Nothing we could have done, reflecting back on that day, could have been of such benefit than self education in Federal Justice procedure. The reference chart had a tremendous amount of information in a small package. Much of it was constitutional right and case precedent concerning those rights. The immediate portion of that text that gripped me most was the 4th Amendment and what it promises the people. Most of us know as Americans the basic guarantees within the 4th Amendment but I think few realize there is nothing left of it in its original context. The 4th Amendment guarantees "the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures... and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized". When I read the text printed on that single constitutional issue and the commonly cited cases pertaining to that issue I came to realize just how ignorant of law I was and the undertaking before us. The two items that, would then and forever after haunt me, was the Courts adaptation of the good faith exception and the exclusionary rule. It is my opinion that between them and the laws wrote after their implementation have made the 4th Amendment null and void. As events within the courts would unfold in United States vs Carpenter we would only help to erode further this now extinct right of the people in the Federal Courts. After having studied the issues we could raise on that single constitutional issue. I wrote the following letter to my attorney and sent it via certified mail, return receipt requested. The letter was dated **September 20, 1999**.

Attorney at Law Jerry Laughlin,

I felt the need to right this letter in the quiet and solitude of my home where my mind is clear. I would appreciate a few minutes of your time to read it and understand why I sent the letter earlier dated September 14. I have the greatest respect for your intelligence and ability as an attorney. I know your reputation as for competency and decency. I must say that I have no confidence in our legal system. It is a mighty leaky vessel to put much hope in. You do not know me or my family but I think our reputation for being honest and hard working, if you researched it, is impeccable. That is for me and the previous generations as well. As is for the matter you represent us in (The United States of America vs. Lonnie and Sheila Carpenter) we would have dealt with honestly if we could have when it started. That opportunity did not and has not ever presented itself. We know that from the start we could not deal with the black lying thieves that invaded our home on June the 23rd, 1999. They call themselves law enforcement but they are anything but law abiding. The legal system has never served us in the past nor does it now. In my opinion it is as useless for the common man of no monetary standing as tits on a boar hog. In God we trust anyone involved with the legal system is subject to our scrutiny. Please except my apology if you found or find my mistrust offensive, it's not personal. We have worked hard and honestly for what we have though modest it may be it is all we have. If justice is served by God's laws we will not lose our freedom and home but we are not dealing with people of God or for God. I would give my farm willingly for the people of our land to know the truth about how and why this befell us but it will not happen. I request at this time that you file motion's on the matter to have the search warrant thrown out. (The United States of America vs Lonnie and Sheila) As is my understanding from an earlier meeting with you on the reasons why it could be done they are guilty of all. 1. There

was no reason to assume because my son and I were on our land searching and checking for, and on livestock, carrying nothing on our persons that we were tending marijuana. 2. They overstepped their rights on confiscation of our personnel property as evidence to be used against us, (The taking of my arrowheads because they were in plastic containers)no mention on the list left in our home of arrowheads. 3. They did a warrantless search both physically and by helicopter (which would be provable if they had not confiscated our camera as evidence because of pictures taken on the day of June the 23rd at the very start of this said matter). They also entered our home and did more than a plain view search before the said warrant presented itself. Please file these motion's in our behalf . It will be appreciated. If we had a million dollars to give for farm and freedom it would be a small price, we do not. We have not in our lives ask for charity nor do we now. We have always supported our land and country which now forsake us. Please except there ability to pay for our prosecution.

Yours Respectfully
Lonnie Carpenter

I thought that maybe this letter would restore some civility between us and I realized at the time that undertaking our own defense was a monumental task. At the time undertaking any more task than the ones of mountainous size we already had on the farm would leave no time for sleep. There were those within the system who realized, having grown up on a farm, just how much work there is in raising a crop. Mrs. Bible our pre-trial probation officer made every effort to make things no more difficult than necessary. The amount of labor required to finish a tobacco crop and bring it in to cure is enormous. All of the plants must have the bloom broken out and must be sprayed with a chemical to prevent suckers, sprouts that come on top of each leaf when the bloom is broken out. After a few weeks each plant must be cut with a tobacco knife and speared, placed on wooden sticks by driving the center of the stalk over a tobacco spear. The sticks of tobacco the are picked up and hauled to the curing barns and hung to dry. Most curing barns require at least three people to hang the tobacco. The barn in which we were to hang our crop really requires four persons. Since all means of hiring any help had evaporated in attorney fee's, copying cost and other related expenses Sheila and I were relocated to the task normally performed by four. Mrs. Bible would come to us rather than request we come to her. I still remember clearly one such visit during the harvest of our tobacco crop. She called one day and ask what we would be doing the following day that she needed us to come in for a drug test. When I told her we were in the middle of the process of hauling in our tobacco she inquired where the barn was located and told me, after receiving directions, she'd come to the barn the following day. When she arrived and saw the manner in which we were hanging the crop she laughed out loud. Sheila was on the wagon attaching the sticks of tobacco to a rope, which we had rigged with two loops to perform the task, and I was pulling them, one at a time, twenty feet into the barn to hang them on the two highest sets of tear poles in the barn. After those two tears were hung I'd climb down to the two lower tears and Sheila would hand me the tobacco to be hung on those. Mrs. Bible got a charge out of our creativeness. She and many other employees within the Federal Courthouse, in time, would all get more than one laugh at the versatility we showed brought about by necessity. There were people within the structure of the Federal Justice system who would see us for what we were. There were others, who no matter what the evidence revealed, would pursue our conviction. Mrs. Bible looked at the situation with her eyes open and I appreciated it.

Sheila carried the load in our studies of the Federal rules of Court. I carried as much as I could of the chores on the farm. Everyday Sheila studied the rules of evidence, the cannons of ethics and constitutional issues involved in our case. Each night when I came in from the fields we'd go over what she had studied. I had the easier of the task. Farming in the manner we were accustomed to doing it was brutal backbreaking work. Still I think it pales in comparison to the mental strain that trying to comprehend the Federal Justice System puts on one.

The day arrived that we were suppose to view the governments evidence. Given what Att. Laughlin had told me about the containers he'd seen the arrowheads in we believed that should we be able to take one of the baggies and have it fingerprinted it would reveal only the fingerprints of our accusers and not ours. The evidence we saw that day, though contrary to what Att. Laughlin had told me about, would benefit us tremendously as Court proceedings progressed. I believe that no other single action we took in the form of the certified letters brought us more reward than pursuing our personnel right to view the evidence. It also further enlightened us as to who's advocates we believed the Court appointed attorney's were.

We had the seizure list in hand and had noted mentally several items on the list that we knew were not in our home or at least not containing what the list said they were. The arrowheads were in the zip lock containers I had clearly described to Att. Laughlin. As I looked through them I quickly realized there was only a fraction of the arrowheads originally contained in the box still inside. I looked at Det. Gibson with hatred and he returned the look with a sneering smile on his face. As we viewed the evidence it was hard to keep any command on our emotions. Det. Gibson took great pleasure in showing us many of the items, as the smile on his face evidenced. He showed us the yellow box that was located in our bedroom that contained the marijuana we were guilty of possessing. He made it a point to show us one of the same embroidery thread bags which contained the remaining arrowheads still in their possession. He pulled it from the yellow box and stated that this was the reason they had taken the arrowheads. The bag had half of a joint in it. Gibson said, see those bags were also being used to contain marijuana. It was again the look on his smug face they made me want to just smack him in the mouth. Det. Gibson at the time was obviously quite pleased with himself. In time , and upon a closer look at the pictures held in evidence against us taken on June 23,1999, I think we were more pleased than he with this particular piece of evidence. There would come a point in time that it would help to wipe the smiles from the governments face. The only marijuana now contained in the yellow box was the roach in the embroidery thread bag, the rest Det. Gibson said; had been sent to the T.B.I. laboratory for test to be performed. That test was to establish if what they believed to be marijuana was indeed that substance. Det. Gibson also informed us that marijuana had been sent to a lab. for a D.N.A. analysis to determine if the marijuana found in our home matched that found in the field. Gibson was enjoying himself immensely it would appear. I'm not sure what he enjoyed most but I imagine it was the expressions he received in response to his statements and the evidence he presented. He had a whole box of pictures to show us, most of which were taken in our home. As we viewed them and he described there content Sheila and I bristled in anger. Now it became clear why the contents on the shelves of our bedroom closet had been dumped upon our bed. He stated that the picture taken of the empty shelf, if closely inspected, revealed remnants of marijuana. This he said was where we were drying the crop. He showed us a picture of a green box they aledgged contained marijuana found, he said, under the counter in our bathroom. The picture showed the box, of which we had no idea of it's origin, open revealing the contents inside. He said the contents were green marijuana leaves. There was also a picture of the box which

contained my arrowheads and the fossil stones, open also to reveal the contents. There was a picture of the yellow box with the contents removed and placed on the white bed sheet of our bed. It was really a good picture that clearly showed all the contents spread out so definition of each item was pronounced. We were also given a drawing, made by an unknown party, that depicted the geological location of the marijuana they'd found in the field. This drawing had natural and manmade elements within it that would clearly define the location of the many small patches of marijuana they'd found. As we viewed all these picture we new some of the items depicted in them did not exist, or were not in the location of there origin, when the officers entered our home on June 23. Now it would just be a matter of proving it in the Court of law.

Att. Laughlin would send a letter to Att. Ricker dated **September 22,1999** the letter read as follows:

Dear Louis:

While I realize you are presently in trial, in accordance with my letter of September 15, I did today visit with Detective Gerald Gibson at the Hawkins County Sheriff's Department for the purpose of again examining some of the physical evidence in this case, and also giving both of our clients the opportunity to examine that physical evidence. They were able at that time to examine all items of physical evidence, except for the marijuana that was still at the laboratory, and the firearms and chain saw, which they saw no need to examine.

Contrary to what I had recalled from my initial examination of the baggies in the green box containing the arrowheads, those baggies are of the peculiar type that were used by Ms. Carpenter in her craft activities. There was also a baggie of that type in the yellow plastic box taken from their bedroom, and which baggie contains some remnants of what appears to be marijuana.

While we were there they used a Polaroid camera to make Polaroid photographs of the photographs that we looked at earlier. Obviously, they are not of the same quality as the original Polaroid photographs, but I believe they will suffice. I also had Detective Gibson write the same information on the white boarder at the bottom of our copies of those photographs as appears on the originals. They also made for us a xerox copy of the eight (8) aerial photographs that we had inspected earlier, and provided me with a copy of the videotape of the count of the marijuana plants at the Sheriff's Department. Mr. And Mrs. Carpenter have those items in their possession so that they can inspect and examine the same, and they are to return them to me next week.

Enclosed for your files is a copy of a TBI laboratory report which was provided to me by Detective Gibson. When I inquired of him about a DNA analysis, he informed me that the report was to come from some laboratory in Kentucky and he had not yet received that.

He had not yet had the film developed that was taken from Ms. Carpenter's camera, but assured me that he would do so in the next few days, and that he would have duplicate prints made of each of those photographs on that roll of film.

Very truly yours,
Jerry W. Laughlin

JWL/djs/176/3
Enclosure

cc: Mr. Lonnie D. Carpenter
608 Choptack Road

Rogersville, TN 37857

Att. Laughlin's letter, although I doubt it was his intention, would prove to be of great value to our defense. It would also become key in our efforts to intensifying our crash course in Federal Law. If I had any reservations left about who Att. Laughlin truly advocated those reservations dissolved with this letter. It was somewhat of a slap in the face. Evidently he considered me to be somewhat the village idiot if he thought I'd buy his misidentification of the embroidery thread bags for the ones he originally described. Sheila and I could not keep from slapping each other on the back now at having forced the issue to see for ourselves the evidence held against us. Those letters to our attorney's had, and would, opened up a hole can of worms for the government. The pretense Det. Gibson conveyed to us for the confiscation of Sheila's camera was they believed that she might have taken incriminating pictures. **He, as of September 22; almost three months after having taken the camera, had still supposedly not had the film developed. Film he said he believed would incriminate us.**(There had been several court dates in the time in between)We knew the truth, so did Gibson. The eight pictures taken from the helicopter were taken by Gibson himself. In time he would deny taking the pictures in Court, under oath. The embroidery thread bag with the marijuana remnants he pulled from the yellow box, which he proposed justified the taking of the arrowheads, was just one of many blunders Gibson made on that day. The announcement of the purposed D.N.A. test to prove our guilt would, I believe, show who might better typify the part of village idiot. The drawing depicting the geographical location of the marijuana was a thing of beauty to us. It clearly showed the marijuana wasn't on our land. The drawing would also dispute every contention made by the officer, Captain Ronnie Lawson, in the affidavit given for the issuance of the search warrant. The would be government evidence of our guilt would become our evidence of our innocence. As for Laughlin's letter I'm still unclear of it's purpose but it, like the evidence we viewed that day, was heaven sent. All of this brought about by two little ole' certified letters, my, my. I believed we were on to something. Laughlin's statement about us having the pictures and promising their return to he and Att. Ricker was kept. We did return the pictures to him after having made copies of all. Now we had to set about disproving some of the contentions made by our accusers concerning the pictures. We had the pictures blown up and Sheila almost immediately come up with the first evidence of Gibson's deceit. The picture taken by Det. Collier of the items contained in the yellow box on the white background made everything jump right out at you. Every colored detail was easily seen on the white background. We knew Gibson had planted the zip lock embroidery bag in the yellow box. This bag had a red line along the top and the "floss away" logo on the front and a die lot number, plainly legible on each bag. The picture contained several items that we didn't dispute were in the box. There were four bags of marijuana, a rolling tray, a small white plastic bucket with a red handle that had a picture of Casper the Ghost on the front. Each of the bags were placed with separation between them to show their individuality. The item that Sheila realized was not in the picture was the embroidery thread bag that Gibson had pulled out of the box, containing what Att. Laughlin had described as remnants of marijuana, attempting to justify taking the arrowheads. I think to most people this would be referred to as C.Y.A. Instead of the intended affect of covering the H.C.S.D. and Att. Laughlin's ass it would in time expose them. The blown up picture of the green box, though not on a white background, clearly showed the bags with the red zip top; and though not entirely distinguishable dark items within that were the arrowheads. Det. Collier's testimony later would be that he merely picked up the box, looked

inside and saw the baggies and confiscated it as drug paraphernalia. The picture would show otherwise.

On **September 24,1999** Att. Laughlin filed a Motion to suppress all items seized during a search of the residence of the defendant. In this Motion, although I had petitioned him to do so by certified mail, Att. Laughlin made no mention of the arrowheads he had personally viewed and knew were not inventoried on the seizure list. In that motion he states in article 3. "That on June 23,1999, law enforcement officers conducted a search of the defendant' residence, at which time they seized various items of personnel property, an itemized inventory of which was filed by said law enforcement officers with the return of said warrant, and a copy of which inventory of items seized is attached to the return of said warrant included at exhibit 1 hereto".Att. Laughlin stated in article 7." that the items seized by the officers during the search of the defendant's residence so grossly exceeded that described in and authorized by the terms of the search warrant that they effectively transformed it into a general warrant as prohibited by the Fourth Amendment." It was my understanding at that time, since the arrowheads were not listed on the return of said warrant: were they not mentioned specifically in the motion to suppress, the opportunity to argue there illegal seizure would be lost. In the process what remained of the original quantity would be forever lost to us as well. A lot of people collect arrowheads but I can't imagine anyone getting a bigger thrill out of finding one than I do. To hold in my hand what another hunter made maybe five thousand years ago and lost in his pursuit of food brings many mental images to my mind. I always wonder how it came to be where I found it. I wonder about the marvelous craftsman who made it and what it must have looked like then at the location of the find. My great-grandmother was a full blooded Cherokee and I sometimes wonder if the maker might have been related. Over the years, many times, I've had people comment how lucky I am about finding them. Sometimes it seems that they just jump into my sight in the most unusual places. I even wonder upon occasion if it isn't more than luck and if the spirit of the person who made them might have something to do with my good fortune. I have tremendous respect and admiration for those brilliant people that once walked this land I now call home. The arrowheads have a value to me that I could not apply a dollar amount to, as many artifact hunter do. All of the artifacts I had were found on the surface of the land. I hate the grave diggers. Desecration of a grave is the same if it was someone buried last week or five thousand years ago. Again I felt Att. Laughlin was failing to pursue indiscretions he had personnel knowledge of on the part of the H.C.S.D. We decided to make an attempt to pursue civil action against the H.C.S.D. in regard to violation of our Fourth Amendment right enacted to protect the people against illegal search and seizure. In telephone conversations with area civil attorney's when I divulged whom my intention was to bring civil actions against, and why, the discussion ended abruptly with no takers. I made an appointment with Att. Steven Johnson to discuss a civil litigation without his knowledge of who I intended to take action against. When I met with Att. Johnson, although he declined the case, he enlightened me about the permanent damage an attorney who practiced both criminal and civil law might effect on his career in taking a case of this nature. He stated his ability to plea bargain for future clients with the government would be irrevocably damaged. In months to follow many times I saw the same mentality on the part of practicing attorney's bound by the canon of ethics to protect the honor and integrity of the officer's of the court, of which they feel obliged to uphold though they forsake the same for their clients. This conversation would greatly accelerate my studies and intentions upon self representation. I would eventually find out the attorney's need not worry about officer's of the court. The Courts themselves protect thieves and liars with the official immunity law. No greater

examples of that could be evidenced than the incidents at Ruby Ridge or Waco. So much for neutrality and detachment. Having said all this we still would attempt, at later interval, to pursue these issues. A date had been established for the pre-trial hearing, October 12,1999. Prior to that I pursued Att. Laughlin to request again, as a matter of the order on discovery, a copy of the pictures from our camera; which Det. Gibson had assured us would be developed in a few day's on September 22, and the results of the D.N.A. analysis of the marijuana. Att. Laughlin did so in a letter **dated October 6,1999**. We are still trying to get discovery. Think that we would be allowed that kind of understanding, 10 days, that was the order. That letter read as follows:

Dear Detective Gibson:

We need to obtain from you, as a part of the discovery to which we are entitled in this case, a copy of the photographs developed from the camera taken from the Carpenter residence during the search thereof, and a copy of any additional laboratory report that you may have received, other than the one that you have already provided us with from the TABI laboratory. If you could kindly bring them to the hearing scheduled on October 12,1999 we would appreciate it very much.

In addition, we have decided that we will need to examine the actual green leafy materials submitted to the laboratories as soon as it is returned to you from those laboratories. I believe that you indicated that this would necessitate a joint meeting with Assistant U.S. Attorney Smith present. Please advise us of when you would propose that take place.

Very truly yours,
Jerry W. Laughlin

Sheila and I arrived at the courthouse on October 12,1999 and ask the security officers at the desk if he knew the location of the Courtroom in which the pre-trial hearing scheduled for that day was to be held ? He responded there would be no hearing, that no such hearing was on the schedule for that day. We had received no notification of the postponement. The date had been postponed in an Order from the Court dated October 8 on a motion from the government for the same. Maintaining life supporting sustenance at the time was a struggle for us, one we need not have had interrupted unnecessarily . The new date established by the Court for the hearing was December 13,1999. The trial date was reset for January 4,2000. This postponement of the trial date would be one of ten.

As directed by Att. Laughlin on **November 1,1999** we submitted to him a list of witnesses we would have subpoenaed for our defense via certified mail return receipt requested. In this letter we gave the names, addresses, and what these witnesses might testify in regard to the case at hand. Att. Laughlin suggested that we not subpoena both Tim and Judy Williams, husband and wife, to testify on our behalf. He expressed that it was his belief, given what I'd told him about what they might testify to, Judy's testimony would not be relevant or necessary. The William's front door was no more than 200 feet from ours.

On the mourning of **November 11,1999** Mrs. Williams, Judy, came to our home very upset and stated that she'd just been paid a visit by Det. Gerald Gibson of the H.C.S.D., Mike Adams and Mike Steadman. Mr. Adams and Mr. Steadman proposing themselves to be DEA officers. She had them each write their names on a piece of paper, a material piece of evidence which would be latter entered at trial and testified to, before answering any questions they ask. She said they had arrived only minutes after Tim left for work and they made her apprehensive about who they were. They had conveyed to her that she and Tim might be implicated for the crime for which

we were about to go on trial and suggested that it might be us who would do so. She said one of the officer's said we had stated that they regularly used the road, which the affidavit submitted in the application for the search warrant said connected our home to the marijuana, and that we would contend they were growing the marijuana. Since no such conversation ever happened with anyone about the William's, it was my belief after our talk with Mrs. William's on that day, that once again either Att. Laughlin or Att. Ricker had betrayed us. The government had made no attempt prior to November 11, 1999 to contact the William's and did so only days after we submitted our would be witness list to our attorney's. The only witness Att. Laughlin questioned the validity of was Mrs. William's and then she received this intimidating visit from officer's of the Court. Fortunately Judy had respect for us and rather than believe them on there word came and spoke with us about what transpired that day. She also showed intelligence in having them write down there names before she answered any question. She also exhibited, on not just this occasion but several instances thereafter, something our accusers lacked; a spine. The officers arrived that mourning to knock on her door only minutes after Tim left. I'm sure it was just coincidence.

On **November 16, 1999** I wrote the following letter, sent via certified mail as had become our custom, and with Sheila's assistance:

To Attorney's At Law Jerry Laughlin and Louis Ricker

I write this letter at this time because I have concerns as to who's advocates you are at times. We must count on your representation of Sheila and I sense we have not the ability to pay ourselves for other representation. As you know the only true assets we have are our vehicles and farm. Our Vehicles have little value and our farm is under possible Federal seizure because of the counts of the indictment against us. When I last met with you Mr. Laughlin and Mr. Ricker you, Mr. Laughlin told me that we would face a mandatory imprisonment of 5 years on the indictment count of manufacturing marijuana because of the quantity of plants in the accusation (134). Mr. Ricker had told Sheila earlier that we would miss or be spared mandatory sentencing because of no prior arrest or conviction on drug or any other state or Federal charges. First, of course we would have to be convicted of said crime. Which of you were correct in these assessments of the situation ? Another concern I have is the use of statement's by the Hawkin's County Sheriff, Mr. Wayne Clevinger, in local papers as possible defense in our case. If we had made statements they could be used as evidence in our prosecution. It was my understanding that at the time he made these statements to color the public view of our guilt in the Rogersville Review there was an audio recording made by the reporter so there would be no question as to what was stated at a later date. Why would these written statements or this audio statement not have a bearing in our defense. I also would like to know as a matter of discovery when the prosecution must have given us the proposed laboratory results on the marijuana they say where still not in as of October 28 when they gave Mr. Ricker the pictures they developed from our camera they had seized. It was my understanding some time ago that we were to be presented any said evidence (test results) in time for us to formulate a defense. If it takes them 5+ months to get the results how long would we be given to formulate defense if they were not favorable to us. I would also like to know if my Indian artifacts (arrowheads) can be brought up in the motion hearing as overbreath of the search and seizure since you Mr. Laughlin did not mention them in the motion. I think since no mention was made of them in the seizure list and they were in the evidence presented us they are the most gross item of the overbreath . Mr. Dan Smith, the prosecutor in this case, says in his argument against a

warrantless search with the helicopter that the plants were spotted on the day of June 23rd at an altitude of 1000 feet. The helicopter arrived that day at extremely low altitude and I think was never at 1000 feet. If we had an eye witness who was here at the time to dispute his statement would that not be beneficial at the hearing The pictures we took were also obviously taken with the helicopter at less than 1000 feet. The intention I still insist was to catch my son and I at, or near the plants on that date because they located the plants at an earlier date and wanted to implicate us even thou the plant's were as near or nearer three other residences than ours. This by there admission's and pictures of evidence did not happen. I also still dispute whether the plants were on our property or adjoining properties. This witness might also shed light on this matter. One of the officers stated to us on that day that they had indeed located the plants at an earlier date and were looking to implicate someone, the someone I summize was us. I think if the dispatch records of June for both Hawkins County officers and the helicopter were subpoenaed, if they had no forlorn notice to alter them, might show this to be true. I think sense we paid our taxes and supported our country prior to these accusations we should be represented with some respect of our innocents till proven guilty and be given correct statement of the penalties if proven guilty in the Court of law by our attorney's

Lonnie Carpenter

I think it important to say that never once did we negotiate a plea. We were not guilty of the crime for which we were charged and considered the government totally untrustworthy. We supposed, given what Tim Williams had watched take place the evening of our arrest with the officers doing the shuffle with some of the plants; along with all the lies already told on the part of the government, that a false D.N.A. report to sustain a guilty verdict was entirely possible and more likely probable. Having said that Sheila and I both agreed we'd make no deals with the devil. No matter what the outcome we'd have to live with ourselves. Although we had in our possession a receipt from the TABI laboratory for the marijuana submitted by the H.C.S.D. as well as the results from the test there was no receipt from any laboratory in regard to anything being submitted for a D.N.A. test.

The pre-trial hearing days away, feeling we had no expectation of representation from our Court appointed attorney's, we prepared and filed with the Court a Motion for Attorney substitution with supporting affidavits. That motion was filed on December 8,1999.

Having filed the Motion for Attorney Substitution and moving the Court to proceed pro-se otherwise we went to the Federal Court Clerks office to ask questions in regard to filing a motion for the issuance of the subpoenas. An employee in that office ask us to wait a moment that she needed to ask someone a question. A few moments later she returned with another female employee with her who told us we need not be concerned with filing a motion for the issuance of the subpoenas, that she had spoke with the Judge and that he had conveyed to her that our motion for substitution had merit and that we would be appointed new council at the upcoming hearing ordered by the Court in regard to the issue.

On December 13,1999 the hearing was held to address our Motion for Attorney Substitution. What transpired on that day caught us totally by surprise. The motion we had filed stated as cause much already mentioned in the earlier pages to this text. Magistrate Inman spoke about the code of ethics by which attorney's are bound. We were well aware of the ethics by which attorney's were bound and nothing that I had ask Att. Laughlin to do violated those ethics. Mag. Inman in short denied our motions and proceeded to ask given that no substitute council would be appointed did I still wish to represent myself. I replied "yes". I told Mag. Inman about the actions

of our Court appointed attorney's, actions I believed constituted ethical violations on the part of the attorney's. He ask a second time did I want to discharge my attorney, to which I again responded "yes sir". He advised against my actions and made clear the perils of my undertaking but concluded it was my constitutional right. I ask would he allow me the assistance of the Federal Defenders Office across the street. The Magistrate denied that request as well. The Magistrate ask that we talk with Att. Laughlin and Att. Ricker in private before we made our decision. We agreed to do so. As we left the courtroom many of our family members, present in the courtroom for the hearing, were in tears from seeing the reception we had received by the Court. We were taken aback so much by what had transpired contrary to what we'd been told in the clerks office only two days before. We agreed to accept the appointed attorney's representation and go forward. I felt overwhelmed and responded in accepting Att. Laughlin back as my council after everything that had transpired " I think our fate has already been decided". The Court reset the pre-trial date for January 4,2000. Although we acquired the transcript of the proceedings, at our expense, it would not reflect all the prejudice shown us by the Court and the overall attitude and statements Magistrate Inman made. It was on that day that we were first made aware of the fact that no audio recording device was allowed in the Federal Courthouse in the Eastern District of Tennessee. The reason would only be made more clear over time and the proceedings that would follow. I was to learned to late in the game that you have a right to have your own stenographer in the Courts should you be able to afford one. It would not have helped Sheila and I anyway for we were not. I hope that someone reads these words and it helps them. Remember U.S.A vs Carpenter and what might be gained from our loss.

Sheila tried her best to exude hope that we could make things work with Laughlin and Ricker and I promised her I'd keep my cool although each time I was around them I wanted worse to choke the living shit out of them. I tried to remember what Thumper's mother reminded him of in Bambi as the day approached when next we were to meet with the attorney's "if you can't say something nice don't say nothing". **It would not be me who snapped.**

The day came that we were to meet with the attorney's. I tried my best to put on a happy face although each time I was around these people now a sickness continued to grow within me. It's the kind of sick you get when you've eaten something bad and you come to realize the only relief that might be afforded you is to vomit it all out. Once you have been sick in that manner your body seems to recall the demon that made you so sick and each time you smell what it was that made you sick your stomach churns again in revolt. That's the point I was at now. Just the smell of the law office made me sick that mourning. I was about to be served up a big plate of what made me sick . When we walked into the room we met Laughlin and Ricker in that mourning they assumed we were caught now in the trap from which there could be no escape. An attorney somewhere along our journey through the twilight zone that is the Federal justice system told me a story about a colleague that came to mind. He said the man , when confronted with the option of where to meet another attorney representing the opposition in a hostile situation, always chose to meet that person in their law office. He said he'd ask the man who'd been in the business for many years why he chose the opponents office instead of his. He replied, well if thing's get to rough and I decide I can't stand any more of their bullshit I can get up and walk out , if we're in my office I can't. I was glad that day I could just get up and walk away. Had the meeting took place in our home my emotions would have overwhelmed me and I would have done my level best to choke the living shit out of our attorney's .It took less than five minutes for them to piss Sheila , the one who was going to play it cool, off. Ricker laughed and said "**what would you like**

for us to do, file a motion cause it taint fair”. A motion cause it taint fair they found marijuana in your home. The meeting quickly came to a conclusion and I got Sheila out of there before she tried to choke the living shit out of them. As we drove home that day we knew, regardless of the outcome, **we’d represent ourselves at trial.**

The events of the last couple of weeks typified the entirety of five plus years of our life. It was a roller coaster ride of emotions. One day we’d do something right and hold their foot right to the fire and take great delight in what we’d done. The next day they’d figure out something dirty, sneaky, and underhanded to let you know that the entity you were dealing with was the greatest man made entity on the face of the earth the Federal government of the United States of America . No matter what they did we kept our eye on the ball. We were determined to show them they weren’t our daddy. I awoke in the middle of the night and had to get up and write this down, like I’ve done many times in the seemingly endless journey this has been, it’s the only way I’ll ever exercise the demon’s from my sleep that haunt me. When I read the letters and documents that made up our case it all comes back to me as clear as moonshine. When I’ve wrote it all down then I will have done everything I can do and then maybe I won’t wake up haunted by the fact they, the government, now use U.S.A. vs Carpenter to beat the hell out of others. Maybe if enough people read what happened in U.S.A. vs Carpenter and just a few of them imagine what it was all like they’ll envision it could be them that wore our shoes for a time and they’ll attempt to bring a change. They’ll bring a change that try as we might we could not. The malice shown us was, and is, an everyday thing across this nation. It’s not just something that happened to us. Maybe we deserved it , after all I heard more than one person on the governments side whisper that it had been widely rumored that Sheila and I were the kind of people so ruthless in nature we’d push little ducks in the pond. Still we would not go gentle into that good night.

The sarcasm that we were greeted with in the meeting spilled right over into the Motion Laughlin wrote next on my behalf. Filed on **December 22,1999** was a Motion to Amend Motion to Suppress. Att. Laughlin in that motion wrote “9. That among the items seized by law enforcement officers during the search of the defendant’s residence were some Indian arrowheads, but which are not included in the inventory prepared by said law enforcement officers of the items seized, and for which reason the government should not be permitted to introduce said Indian arrowheads into evidence in this case. I picked the paper up that the motion was wrote on and it had that sickening smell of which I spoke earlier.

CHAPTER 3 THE MOTION HEARING

On January 4,2000 the pre-trial hearing was held before our good ole’ buddy Magistrate Inman. All of our new found friends showed up. Our council offered nothing in the form of evidence or witnesses which we had thought, and expressed in the letter of Nov.16, might be beneficial to our position. Quoting from the ethics Magistrate Inman referred to that attorney’s are suppose to be bound by EC 7-7" in certain areas of legal representation not affecting the merits of

the cause or substantially prejudicing the rights of a client, a lawyer is entitled to make decisions on the lawyer's own. But otherwise the authority to make decisions is exclusively that of the client and, if made within the framework of the law, such decisions are binding on the lawyer." I guess that only pertains to an attorney you pay for out of your pocket. If the government places a lean on everything you own merely on accusation and picks your attorney for you all these ethics don't apply. You'll take what you get and you'll like it, right big daddy? Once again I pursued Att. Laughlin to pursue the results of the DNA analysis before we entered the courtroom on that date. Att. Laughlin ask Ass. U.S. District Attorney Dan Smith, who represented the government through most of the proceedings, if he had acquired the results of the test. Att. Smith said not yet. I thought, six months is a long time to perform one little test. When proceedings started I took the witness stand. My testimony was based largely on the video tape I'd made on June 28,1999, five days after our arrest. The tape was viewed by the court and showed what I described of the road and the land previously in this text. I thought seeing would lead to believing on the part of the court. Although the video tape was viewed by the Court on that day a jury would never see it. The governments witnesses would testify to facts contrary to what their own material evidence would show, the drawing held in evidence against us ; viewed and copied for us at the discovery viewing on September 22,1999. The problem was with that particular piece of evidence, the government gave no testimony as to it's origin or what it pertained to. If it conflicts with the story you tell ignore it maybe it will go away. Sergeant Greg Larkin testified to many things in conflict with the drawing but the one thing he did admit was that he crossed the line fence, which as is common to many pieces of farm land, that separated our land from the adjoining property. We realized the drawing clearly showed he wasn't telling the truth. Sheila prompted Att. Ricker to present Officer Larkin with the drawing. When ask by Att. Ricker, at **page 46 line8**

Question : Did you draw this map? Was that your work?

Answer: No, sir.

Question: You were just one of the officers that, that went out there. There's other people out there --

Answer: Yes there was.

Later in proceeding, held in the Court, the officer who actually made the drawing would testify that Officer Larkin helped him make the drawing. Since it was not advantageous to the governments attempt at having a defective search warrant upheld Off. Larkin denied the drawing. Everything that Off. Larkin testified to on this day, which would bias the decision wrote by the court to deny suppression of the items seized in the search, was in direct conflict with the drawing which he in fact helped make.

Lt. Bob Crumley would also testify and on **page 52 line 25**

Question: And you did not observe any marijuana between the mobile home and the creek; did you?

Answer: No. You're talking about the Carpenters' mobile home and the creek?

Question: Sure.

Answer: No.

Question: You didn't observe any marijuana in, in their yard; did you?

Answer : No.

Question: You didn't observe any marijuana in the tobacco patches behind the house between the—behind the mobile home, between the mobile home and the creek; did you ?

Answer: No.

Question: So you didn't relate to anybody that there was marijuana near the mobile home; did you.

Answer: No.

Captain Lawson had given, under oath, an affidavit that stated Lt. Crumley had told him the marijuana was "near" the residence when in fact the marijuana was in excess of three hundred yards from our home, nearer other residences than ours, on someone else's property. There was someone in Judge Brand's, the Judge who issued the search warrant, chamber on June 23, 1999 who told us that he; Judge Brand, denied Captain Lawson the warrant twice before he finally submitted an affidavit for which he granted the warrant.

The testimony I gave that day was the truth, as the video tape; viewed by the Court, would show. The testimony given by the government witnesses was all deceit and lies, as their own evidence; the drawing made on June 23, 1999 would show. The government's Attorney, Mr. Smith, had himself argued in his response to the initial Motion to suppress filed in the Court on my part that (on page three of Government's Response To Defendant's Motion To Suppress All Items Seized During Search Of His Residence)1. The United States asserts that the helicopter in this instance spotted the marijuana plants from a height of at least 1000 feet; 2. All of the marijuana plants were growing in plots far beyond the curtilage of the residence and, therefore, defendant had no reasonable expectation of privacy. Also from that same document on page 4 "In the instant case, the helicopter pilot spotted ten different patches of marijuana. The closest patch to the residence in question was in excess of two hundred and fifty yards and clearly not within the curtilage of the residence at 608 Choptack Road.

Within this same document Ass. U.S. Attorney Smith would argue the reverse when arguing if there was probable cause for the issuance of the warrant. On page 5 he states "In the instant case, defendant ignores the totality of the circumstances presented to the issuing magistrate. The issuing judge knew from the affidavit that a trained spotter had observed several patches of growing marijuana near the described residence."

Att. Smith would argue they were far in one situation to uphold the warrant and that they were near when arguing another aspect of the validity of the warrant. Magistrate Inman would rationalize that near is a relative term. So is far, but by definition the two are the opposite. Such is the case in the arguments or testimony of the government. If in a case instance the evidence doesn't support your cause ignore it or attempt to cover it up. It's not really a problem to do if you control both the council for the government and the defendant, it's a win, win situation. Att. Laughlin, at this point in time, had finally acquired the photographs. Photographs taken by Sheila with her camera; seized under the pretense they might incriminate us, that indeed showed the helicopter at an altitude of less than 100 feet. It showed the helicopter hovering over neighboring properties. He chose to concede on the issue, never giving the government cause to answer the question of the illegal overflight. Officer Crumley would testify that in fact he had flown at an altitude of 100 feet before the issuance of the warrant. Att. Ricker at least attempted to get

Laughlin to stand on his memorandum pertaining to the issue but he chose not to do so. On January 7,2000 Magistrate Inman issued his report and recommendation as to the Motion hearing held three days prior. To make a long story short Mag. Inman recommendation was as follows:

Recommendation

Evidence of the arrowhead collection, camera, and portrait should be suppressed and these items should be returned promptly to the defendants. With the foregoing exception, defendants' Motions to Suppress should be **Denied**.

Any objections to this report and recommendation must be filed within ten(10) days of its service or further appeal will be waived . 28U.S.C § 636(b)(1)(B)and(C).*United States v. Walters*, 638 F.2d 947-950 (6th Cir. 1981); *Thomas v. Arn*,474 U.S. 140 (1985).

Unbelievable, Magistrate Inman was only going to suppress the items they took that made them out to be the thieves they were. I personally don't believe Magistrate Inman was capable of making a decision as the position he held dictates he must, neutral and detached neither for the prosecution nor for the defense. I believe this, and future decisions he would write in our case, would bear that personal viewpoint out. As is the case of any officer or justice within the system Magistrate Inman need not worry. The Justice system always has a safeguard installed to protect it's own regardless of their actions. I would find out later Magistrate Inman well knew we weren't playing on a level field. Personally speaking I despised the man and I doubt he felt ant different toward me.

Now I've maligned our attorney's given what I believe was just cause but in the Motions both filed on our behalf in Objection to the Report and Recommendation each did a hell of a job. Sheila and I both immediately picked up on the fact that Lt. Crumley had contradicted the affidavit given by Capt. Lawson in application for the search warrant. He said he never relayed to anyone the marijuana was near the residence, as Capt. Lawson had said he did. We jumped on it and so did Att. Laughlin. To his credit Att. Ricker also brought up facts Magistrate Inman cited in writing the report and recommendation recommending the Motions to Suppress be denied that were beyond what he could legally consider in justifying the same. Out of fairness to each I put in print those motions for those to read who might reflect upon them ,should God forbid, they find themselves or someone they love entangled in a similar situation. I believe there content to be excellent. Maybe we had struck something within our attorney's that made them go to the whip upon this occasion. The Motion wrote by Attorney Ricker read as follows.

DEFENDANT'S OBJECTION TO REPORT AND RECOMMENDATION

Comes the Defendant, Sheila J. Carpenter, by and through counsel, and objects to the Report and Recommendation entered on January 7,2000.

Defendant objects to the Recommendation that the Defendant's Motion to Suppress Evidence Seized During a Search be denied. In support of this Objection, Defendant Sheila Carpenter, relies upon Defendant's previously filed Motion and Memorandum and her co-defendant's previously filed Motion and Memorandum, and testimony taken during the Evidentiary Hearing held on January 4,2000.

Additionally, Defendant avers that the United States Magistrate erred in considering testimony at the Evidentiary Hearing concerning the “well-trodden paths or trails from defendants’ residence to the various marijuana patches.” A finding of probable cause to support the issuance of a Search Warrant must be limited to the written and sworn affidavit.

The affidavit must set forth “fact upon which a neutral and detached Magistrate, reading the affidavit in a common sense and practical matter can find probable cause”. The Magistrate must not “serve merely as a rubber stamp for the police.” He must be neutral and detached in deciding whether there is sufficient cause to justify issuance of a search warrant. United States v. Ventresca, 380 U.S. at 109; United States v. Ford, 553 F. 2d 146 (D.C. Cir. 1977).

Courts reviewing the existence of probable cause to support issuance of a warrant may consider only the affidavit and may not consider other evidence provided to or known by the issuing Magistrate or possessed by the Affiant.

The Defendant hereby adopts any Objections filed by her co-defendant, regarding the United States Magistrate’s Report and Recommendation and/or Order.

Respectfully submitted,
Sheila Carpenter
By: William Ricker

The Objection filed on my part by Att. Laughlin read as follows:

**DEFENDANT LONNIE CARPENTER’S OBJECTIONS TO THE
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION ON HIS
MOTION TO SUPPRESS**

Comes the defendant Lonnie Carpenter, by and through his counsel, pursuant to 28 U.S.C. §636(b)(1), Rule 72(b) of the Federal Rules of Civil Procedure and the Rules of this Court, and respectfully objects to that portion of the report and Recommendation filed by the United States Magistrate Judge on January 7,2000, recommending the denial of most of the defendant’s motion to suppress the personal property seized during a search of his residence on June 23,1999.

RELEVANT FACTS

Background Information

It is undisputed that the residence of the defendant and his wife, located in Hawkins County, Tennessee, was searched by law enforcement officers on June 23,1999, at which time various items of personal property were seized from the premises, an inventory of which accompanied the return of that warrant and is Exhibit 2 to the hearing on the defendant’s motion. It is also undisputed that said search warrant was conducted pursuant to a search warrant is Exhibit1 to the hearing on the defendant’s motion. It is also undisputed that the issuance of said search warrant was based solely on the contents of an affidavit of Ronnie Lawson, dated June 23,1999, also contained in Exhibit 1 to the hearing on the defendant’s motion.

The Search Warrant Affidavit

The entire allegation in the affidavit of Ronnie Lawson submitted in application for the search warrant in this cause are as follows:

On June 23, 1999 at approximately 12:30 p.m. Helicopter Pilot Lt. Bob Crumley was conducting an airtel [sic] search of Hawkins Co. When he was flying over the above described property he saw numerous Marijuana Plants growing near the residence.

Upon information I received from Lt. Crumley, There is a road connecting the above described residence to the Marijuana Plants. Having personal knowledge that Lt. Crumley is certified in the identification of Marijuana I feel there is probable cause to search the said residence and property and seize any illegal contraband found.
Exhibit 1 to the hearing on defendant's motion.

The Search Warrant

Based solely upon those allegations, as well as reference to the ownership and location of the real property also contained in the affidavit, the search warrant that was issued authorized a search as follows:

[Y]ou are hereby commanded in the name of the State of Tennessee to make immediate search by day or night, of the person of said defendant, and the house or vehicles buildings on said premises, and should you find the same or any part of the said Drugs- Marijuana-Para, bring the same before the Court of General Sessions and make a due return of this writ.

Exhibit 1 to the hearing on defendant's motion.

BRIEF AND ARGUMENT

I. Probable Cause Lacking

The defendant Lonnie Carpenter submits that even if all of the factual allegations of the affidavit are accepted as accurate, even though the accuracy thereof is disputed by the defendant, those allegations do not constitute probable cause that there then existed drugs, marijuana or drugs paraphernalia in his mobile home. There is no allegation of any observation of anyone taking any such contraband in or out of the mobile home, or that the mobile home was constructed or modified in such a manner as would facilitate the manufacturing of marijuana. Certainly the conclusory allegation by Mr. Lawson that he "feels" there is probable cause to search said residence cannot be made as a substitute for a factual basis required for the requisite probable cause. Instead, such a conclusory allegation by the affiant is a concession of his lack of any articulable that would constitute the requisite probable cause.

Lieutenant Crumley testified at the motion hearing before the Magistrate Judge that he did not tell anyone that he had observed marijuana plants "near" the residence (mobile home) of defendant. Of course, that is contrary to the statement attributed to him in the affidavit by Deputy

Lawson in his application for the search warrant. The magistrate Judge, in his Request and recommendation attempted to reconcile this conflicting testimony by finding as follows:

More importantly, it must be remembered that Lieutenant Crumley observed paths to the house, and this information was imparted to Judge Brand in Deputy Lawson's affidavit. The connecting trails, coupled with the geography and topography of the area, validates the use of the descriptive work, "near".

Report and Recommendation at page 5.

First of all, while the affidavit for the search warrant states that the marijuana plants had been observed by Lieutenant Crumley "near" the residence, it practically contradicts that concept by also stating that there is a road connecting the marijuana plants to the residence. Certainly things that are "near" one another are not ordinarily connected by a road. In addition, the undisputed testimony at the hearing before the Magistrate was that the road referred to in the affidavit was a driveway that leads to the location of a former house on the property of the defendant that had burned, that it was approximately 900 feet from the defendant's residence to the location of that burned dwelling, and the area where the marijuana patches were allegedly found was some distance from that point. It was some paths that Lieutenant Crumley testified at the hearing allegedly connected the marijuana paths to that former driveway, but ironically there was no mention of the paths in the search warrant affidavit. In other words, the paths or trails that the Magistrate Judge found so necessary to give meaning to the work "near" in the affidavit, as well as the geography and topography of the area also referred to the Magistrate Judge in his findings, are not mentioned in the affidavit does not give rise to probable cause to believe that marijuana or drug paraphernalia would be located in the defendants's residence on June 23,1999.

II. The Search Warrant Was So Facially Deficient That An Officer Could Not In Good Faith Rely Upon It

In moving to invoke the exclusionary rule for the suppression of the items seized in the search of the defendant's residence, the defendant is not unmindful of the good-faith modification to the exclusionary rule adopted by the Supreme Court in United States v. Leon, 468 U.S. 897, 104 s. Ct. 3405, 82 L. Ed. 2d 677 (1984). Such modification to the exclusionary rule and the exceptions thereto were summarized by the Sixth Circuit Court of Appeals as follows:

In Leon, 468 U.S. 897, 104 S.Ct. 3405, the Supreme Court held that the exclusionary rule "should be modified so as not to bar the admission of evidence seized in reasonable, good-faith reliance on a search warrant that is subsequently held to be defective." Id. At 905, 104 S.Ct. At 3411.

The Court noted four specific situations where the good faith reliance exception would not apply: (1) where the supporting affidavit contained knowing or reckless falsity, id at 914,104 S.Ct. At 3416; fashion, and " served[d] merely as a rubber stamp for the police,"id.(citation omitted);(3)where the supporting affidavit "d[id] not provide the existence of probable cause, 'id. At 915, 104 S.Ct. at 3416 (citation omitted), or in other

words, where “the warrant application was supported by [nothing] more than a ‘bare bones’ affidavit, ‘id.’; and (4) where the officer’s reliance on the warrant was neither in good faith nor objectively reasonable, id. at 922, 104 S.Ct. At 3420.

United States v. Leake , 998 F.2d 1359, 1366 (6th Cir.1993).

Certainly the Sixth Circuit has held that an officer’s reliance on the warrant was not in good faith and objectively reasonable where the officer should have known that there was insufficient probable cause for the issuance of the search warrant. In United States vs. Leake, supra. the court held that:

The final bar to application of the Leon exception to this case requires a reviewing court to make two determinations. The first is whether Detective Murphy acted in good faith. The second is whether Detective Murphy’s reliance on the validity of the warrant was objectively reasonable, that is. “Whether a reasonably well trained officer would have known that the search was illegal despite the magistrates’s authorization.” Leon, 468 U.S. at 922 n.23, 104 S.Ct. 3420 n. 23.

This is the point at which the inadequacy of Detective Murphy’s application of the Leon exception. Despite knowing, as he testified, that he had to verify relevant information provided by the anonymous caller, or obtained independent evidence of wrongdoing, Murphy merely posted himself outside the house for only two hours on two nights, where he observed absolutely nothing out of the ordinary.

* * * * *

A review of the suppression hearing transcript reveals a police officer in the surveillance simply produced no significant corroboration of the informant’s claim of marijuana trafficking. Judged on objective criteria, a illegal despite the magistrate; authorization.” id.

In summary, we conclude that the warrant was issued without showing of probable cause. The limited information provided by the anonymous caller, coupled with the brief limited surveillance by the affiant officer that turned up nothing unusual, was insufficient. Detective Murphy knew, or should have known, that reliance on the search warrant was ill-advised. (Emphasis added).

Id . At 1367.

Likewise, in United States v Czuprynski, 8 F.3d 113 (6th Cir. 1993), the Court invoked the exclusionary rule after holding that:

The court in Leon acknowledged that an officer could not “manifest objective good faith in relying on a warrant based on an affidavit ‘so lacking in indicia of probable cause as to render official belief in its existence of probable cause as to render it entirely unreasonable.’” “Id. at 923, 104 S.Ct. 2254, 2265-66, 45 L.Ed.2d 416 (1975). In our opinion, a warrant application which contains no information from which a magistrate could conclude that the informant’s information is reliable or credible is such a warrant. We do not believe that execution of a warrant cannot [sic] be in “complete good faith,” id. 468 U.S. at 919, 104 S.Ct. At 3419, unless some information lends credence to the informant’s allegation.

Id. At 1118.

Certainly, here it cannot be said that officers executing the warrant in the case so lacking in the requisite elements of probable cause were acting in “complete good faith”. After all, Lieutenant Crumley testified at the hearing before the Magistrate Judge that he did not tell anyone that he had observed marijuana “near” the residence, even though that is the statement wrongfully attributed to him in the affidavit submitted for the search warrant. Therefore, the exclusionary rule must be invoked to suppress the evidence seized as a result of the execution of this search warrant.

III. In Seizing Numerous Items Not Described In The Search Warrant The Officers Turned It Into A General Warrant

The defendant Lonnie Carpenter also insists that the inventory of the items seized by the officers during the search of his residence so grossly exceeded that described in and authorized by the search warrant that the officers effectively transformed it into a general warrant as prohibited by the Fourth Amendment, for which reason all personal property seized shall be suppressed. For example, even though the items that were authorized as the subject of the search by the warrant were described as “Drugs-Marijuana-Para.”, the inventory reflects that the officers seized, among other things, a 35mm camera, a chainsaw, a portrait, and seven (7) firearms. None of these items otherwise constitutes contraband.

Aside from the issue of the validity of the search warrant itself, when officers execute it in such a manner as to turn it into a general warrant as prohibited by the Fourth Amendment, the suppression of all evidence seized during the search is warranted. United States vs Medlin, 842 F.2d 1194,1199 (10thCir.1988). Absent such a total suppression, there is nothing to dissuade officers from exceeding the scope of a search warrant, other than that those particular items might be suppressed. That is surely no deterrent.

Conclusion

For the reasons aforesaid, and because of the violation of his Fourth Amendment rights in the application, issuance and execution of said search warrant, as well as the fact that the officers grossly exceeded the description in the warrant in seizing items at the residence, the defendant Lonnie Carpenter submits that all of the items seized during the search of his residence on June

23,1999, must be suppressed.

Respectfully submitted,
Jerry W. Laughlin

Based upon these objections the Court would issue the following Order, under seal.

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE**

UNITED STATES OF AMERICA

V.

**LONNIE CARPENTER and
SHEILA CARPENTER**

)
)
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)
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NO. 2:99-CR-45

ORDER

This criminal matter is before the Court to consider the Report and Recommendation of the United States Magistrate Judge, the Objections filed by the defendants, and the Government’s Response to defendants’ Objections to Magistrate’s Report and Recommendation. The defendants contend that the Magistrate Judge erred when he considered the testimony of agents concerning the well-trodden paths or trails between the defendants’ residence and the marijuana patches because only facts within the affidavit relied upon by a neutral and detached judicial officer can be considered in determining sufficient probable cause to issue a warrant.

In its response, the government agrees that it is a correct statement of the law that in determining whether there was sufficient probable cause for the issuance of a search warrant, the reviewing court is limited to the four-corners of the document and any affidavit attached or incorporated by reference.

The defendants have also contended that there is false information contained in the affidavit supporting the issuance of the search warrant which negates probable cause. To address this type of issue, the Court in *United States v. Giacalone*, 853 F.2d 470, 475 (6th Cir.), cert. denied, 488 U.S. 910, 109 S.Ct. 263, 102 L.Ed.2d 251 (1988), explains:

In *Franks v. Delaware*, 438 U.S. 154, 155-156 (1978), the Supreme Court held:

[W]here the defendant makes a substantial preliminary showing that false statement knowingly and intentionally, or reckless disregard for the truth, was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant's request. In the event that at that hearing the allegation of perjury or reckless disregard is established by the defendant by a preponderance of the evidence, and, with the affidavit's remaining content is insufficient to establish probable cause, the search warrant must be voided as if probable cause was lacking on the face of the affidavit.

Although the Magistrate states "in light of trails or paths", there are no trails or path set out in the affidavit supporting this search warrant. In addition, the affiant states, "on June 23, 199, at approx 12:30 P.M. Helicopter Pilot Lt. Bob Crumley was conducting an ariel [sic] search of Hawkins Co. When he was flying over the above described property, he saw numerous marijuana plants growing near the residence." (emphasis added).

However, Lt. Crumley testified, "Q. So you didn't relate to anybody that there was marijuana near the mobile home; did you?" "A. No." (emphasis added).

Accordingly, this matter is set for a hearing before the Magistrate Judge on Tuesday, February 15, 2000, at 9:30 A.M. to be conducted pursuant to the dictates of *Franks* to address the issue of whether or not there was probable cause to issue the search warrant in question. Based upon the need to resolve this issue, the interest of justice outweighs the interest of the defendant and the public in a speedy trial, and the trial of this cause is **CONTINUED** to February 29, 2000, at 9:00 A.M. which is a date within the confines of the Speedy Trial Act.

ENTER: Thomas Gray Hull
UNITED STATES DISTRICT JUDGE

When this Order came down we thought, well someone has finally saw this charade for what it is. We supposed that when this hearing took place the shit would all come out of the horse. A *Franks* hearing is held, Att. Laughlin told me, under seal because it might be anticipated that if the party or parties; having already given false statement under oath, would concoct further lies to cover the ones already told. Att. Laughlin, it seemed to me, could not stand to see me happy. He said that actually he viewed this as an opportunity for the government to clean the whole mess up. The result they got was not the one they sought. Did you ever notice any time a Law Enforcement officer or a politician gets caught in a whopper there was only a misunderstanding, or he; in this instance, could have just shown reckless disregard to the truth. That all confuses me but it would not have confused my parents. They'd have tore my ass up had I got caught in all the lies the officers of the H.C.S.D. told and the ball was just getting bigger as it rolled down the hill. There's a month to pass before the hearing took place. Do I believe that the Officer's won't rehearse a story many times before that date? I'm not stupid or something. I figured, given what Att. Laughlin had told me about his belief concerning the reason for the hearing, that somehow they

knew before I did. We sent both Attorney's, Laughlin and Ricker, a letter concerning the issues we believed on the agenda of the Court on February 15, 2000. We had, of course, discussed the issues raised in the letter's with the attorney's before writing the same but we thought they'd never do what we'd ask should we not have it in black and white we did. I was about to be pleasantly surprised by the testimony at the hearing. The whole event turned out contrary to what I presumed it would. Still to keep everything in tact as far as what actually happened here's the letter we wrote the attorney's. It was sent certified mail with the return receipt filed away with all those previous.

Copy to Louis Ricker

February 12, 2000

Jerry W. Laughlin
Attorney at Law
100 S. Main Street
Corner of Main and Depot Streets
Greeneville, Tennessee 37743

Re: United States
v.
Lonnie Carpenter
No. 2:99-Cr-45

Dear Jerry

I am writing this letter in regard to the upcoming hearing before the Magistrate Judge on Tuesday, February 15, 2000, at 9:30 A.M. to be conducted pursuant to the dictates of *Franks* to address the issue of whether or not there was probable cause to issue the search warrant in question.

Would it be advantageous to us to present anyone in my behalf to testify? Would it be of benefit if I could bring witnesses from the list I sent you in my behalf that could testify disputing testimony of Officer Larkin (Greg) as to the distance of where the closest patches or patch of marijuana was to the residence. He stated in his testimony that it was "I would estimate from that point looking toward the old house on the right side, on the right side marijuana patch approximately, I'd say approximately 20 yards or so. He says that it's to the right side of the picnic table and hammock. This could not be. Also if this were true it would place it closer to the residence than the prosecution has stated in earlier arguments contending that it was in excess of 250 yards, from the residence. Much closer. He states that it was not on past it in your cross-examination. At this point it is 20 yards to the fence from the roadway and the creek is on the other side of the fence. His admitted testimony also would place the marijuana on someone else's property if it were there or even beyond that point for some distance. His testimony was designed to place the marijuana in a more incriminating place and could by earlier arguments and our witnesses testimony easily be proven to be a lie.

I would also like to address possibly the tampering or coercion of a witness. Judy Williams is on the list I submitted to you as a witness in a letter sent on Nov. 1, 1999 by certified mail. This witness was not summoned or subpoenaed but she is on the list of witnesses. On the morning of November 11, 1999 Mrs. Williams stated to us that Detective Gerald Gibson, Hawkins County, Mike Adams DEA, and Mike Steadman DEA came to her home and said that my wife and I were going to implicate them in this criminal offense. One of these gentleman said that we had stated

that they used the road between our residences regularly and we thought were growing the marijuana. They then ask if she might know of illegal activities we were involved in which an audio tape she states these events to us on that day. The statement they made to her about accusation by us are lies. Never have we said to anyone that we thought the William's would have done this. The intent of those lies to me are clear, to inflict undue pressure which is brought to bear on another's free will. Your immediate response is needed as time is very short.

Very truly yours
Lonnie Carpenter

The witnesses, of which I spoke in the letter, had already been subpoenaed to appear on February 15, 2000. That date had earlier been established as the trial date and the subpoenas had already been issued and received. Att. Laughlin ask that I tell those persons not to appear given the Order for the Hearing, in which a new trial date had been established, but I wasn't about to contradict what the Court had instructed they do. When I ask Att. Laughlin about what I believe to have been coercion he stated that I would merely be reporting Ass. U.S. Attorney Dan Smith to Ass. U.S. Attorney Dan Smith. He asked if I thought we'd gain anything by doing so, a smile upon his face I'd seen before. If Sheila or I or anyone acting on our behalf had done what the three officers did on November 11, 1999 you can bet the farm they'd have burned us down. Having spent the time we did in the governments house we personally have met persons who got five year prison sentences for less. One of the persons of which I speak merely confronted the governments witness to be and told them, in so many words, to tell the truth. The government will never be called down on their own indiscretions but let someone representing a defendant step over their imaginary lines and see what transpires.

CHAPTER 4

THE FRANKS HEARING

I feel it important before I write about what transpired at the *Franks* hearing to say that almost 8 months have past since this all began. In that time much has happened but we'd have never made it to see this hearing come to pass if we'd have laid down under the constant pressure applied by the government. Looking back now I'm not sure where to begin when crediting friends, neighbors, family and even people who were just casual acquaintances for the courage they showed under the pressure put upon them as well in taking our part. Given the circumstances and all the deceitful things the government did that could have caused panic or question about our character on the part of those people they all stood their ground and told the truth never once turning their back when ask to stand up for us. In less you've been there it's beyond conception what the government will do to those who have the will to take a stand for you. Sheila, my wife, had withstood all the bullshit that Att. Ricker had put her through in an attempt to have her rat me out and save herself when they spoke not in my presence. I will admit that there came a time when

even I had ask her to just tell Ricker whatever she needed to in an attempt to save herself. We had sprung Andy from the noose they wanted to hang him with and the weight of the world remained upon me to see Sheila clear of all this .We had realized long before February there was no such thing as going to far when it came to the governments pursuit to crack us. When I told Sheila to tell Ricker whatever it was he wanted to hear if it would only spare her. She said that whatever happened she'd not lie and tell something she knew to be untrue to save herself. She said if we had n't the courage to stand and fight for our freedom and what we knew to be right that we just as well go up on Monument Hill , the local veterans cemetery, and spit on the graves of those who gave there lives for us to have the right. From Sheila I really expected no less, as I've said earlier she has the heart of a lion. There were many others whom I could have had no such expectation. I've come to know that the government plays the odds. The odds are if you approach most people and put them under the gun, like they did Judy Williams, they'll tell you they saw the devil ride a bobcat up a plumb tree if they think it will remove them from scrutiny. The prayer I said very early in this endeavor was answered countless times throughout. That we could withstand the pressure we were put to bear by our accusers and not break or crumble under their might. Now the crap was about to hit the fan and the government would be in need of an umbrella and Ass.U.S. Attorney Smith realized that fact as soon as proceedings started on **February 15,2000**. So did Magistrate Inman. The following is how the transcript began on that day, much to our shock.

(CALL TO ORDER OF THE COURT AT 9:30 A.M.)

THE COURT: OKAY. CALL THE CASE.

THE CLERK: NUMBER CR-2-99-45, UNITED STATES OF AMERICA VERSUS LONNIE CARPENTER AND SHEILA CARPENTER.

THE COURT: ALL RIGHT. I UNDERSTAND WE'RE HERE TODAY TO TALK ABOUT ROADS, TRAILS AND PATHS; IS THAT RIGHT?

MR. SMITH: YOUR HONOR, I, I JUST GOT A COPY OF THE DISTRICT COURT'S ORDER, AND I, I THOUGHT MY RESPONSE - - FIRST OFF, I THOUGHT THAT THE OBJECTION TO THE REPORT AND RECOMMENDATION CENTERED ON TRAILS AND PATHS, AND THE GOVERNMENT'S RESPONSE TO THAT OBJECTION, REPORT AND RECOMMENDATION CENTERED ON TRAILS AND PATHS AS WELL. I READ THE ORDER, AND IT LOOKS TO ME LIKE, AND I WANT TO REGISTER A STRENUOUS OBJECTION TO IT, BUT IT LOOKS TO ME LIKE WE ARE DOWN HERE FOR A FRANKS HEARING THAT HAS NOTHING TO DO WITH TRAILS AND PATHS. I'M NOT QUITE SURE HOW WE GOT HERE.

MY UNDERSTANDING OF A FRANKS HEARING IS OBVIOUSLY NOT THE SAME , BUT I, I DON'T THINK WE ARE NOW HERE LOOKING AT TRAILS AND PATHS, BUT RATHER LOOKING AT WHETHER OR NOT THERE IS AN INDICATION OF A DELIBERATE MISAPPLICATION OF THE TRUTH OR A RECKLESS DISREGARD FOR THE TRUTH IN THE AFFIDAVIT.

TWO THINGS I'D LIKE TO SAY ABOUT THAT, THE FIRST ONE BEING I OBJECT TO THAT PARTICULAR FINDING, DON'T KNOW HOW WE GOT THERE FROM HERE; AND, TWO, I DON'T BELIEVE THAT THERE HAS BEEN A SUFFICIENT, OR A SIGNIFICANT PRELIMINARY SHOWING THAT THERE'S BEEN ANY FALSEHOOD OR

ANY RECKLESS DISREGARD FOR THE TRUTH; BUT I THINK THAT'S WHAT THE ORDER SAYS, AND NOT PATHS AND TRAILS.

MR. LAUGHLIN : YOUR HONOR, I THINK IT'S OBVIOUS FROM THE DISTRICT COURT'S ORDER AND WHAT'S BEEN INCORPORATED IN IT HOW WE GOT HERE, AND I THINK IT'S OBVIOUS THAT THE DISTRICT COURT FOUND IN THE TRANSCRIPT THAT THERE'S OBVIOUS MISSTATEMENTS IN THE AFFIDAVIT, AND THAT JUSTIFIES THE FRANKS HEARING; AND, OF COURSE, IT'S PRETTY CLEAR, I THINK, FROM THE SIXTH CIRCUIT DECISION CITED BY THE DISTRICT COURT HOW WE PROCEED FROM HERE AND ONCE THE COURT DETERMINES IF IN FACT THERE'S SOME STATEMENT CONTAINED IN THE AFFIDAVIT APPLICATION FOR THE SEARCH WARRANT THAT WERE EITHER UNTRUE OR MADE IN RECKLESS DISREGARD FOR THE TRUTH.

MR. SMITH: AND, YOUR HONOR, THAT'S MY WHOLE POINT, IT'S THE DEFENDANT'S BURDEN TO HAVE DEMONSTRATED THAT. THEY DIDN'T EVEN ARGUE IT, LET ALONE DEMONSTRATE IT.

THE NEXT THING IS THE DISTRICT COURT'S ORDER, AND OF COURSE I'M NOT TRYING TO GET THE MAGISTRATE JUDGE TO OVERRULE THE DISTRICT COURT'S ORDER, I'M TRYING TO TELL YOU WHAT I BELIEVE THAT WE'RE HERE FOR, BUT THEY'RE RELYING UPON ONE "NO" OUT OF A FULL PAGE OF TESTIMONY TO MAKE THIS, THIS SUFFICIENT SHOWING OF, OF A POTENTIAL LIE OR MISREPRESENTATION OF THE TRUTH.

I STILL THINK THAT UNDER FRANKS V. DELAWARE THE DEFENDANT HAS THE BURDEN, NUMBER ONE, OF SHOWING THAT; AND THAT'S OUR OBJECTION. WE DO NOT BELIEVE THAT THERE HAS BEEN A SUBSTANTIAL SHOWING FOR THE DISREGARD OF THE TRUTH OR FOR RECKLESS DISREGARD OF THE TRUTH; AND THEN, NUMBER TWO, THEY'RE INDICATING BECAUSE LIEUTENANT CRUMLEY WHEN QUESTIONED BY MR. LAUGHLIN, "SO YOU DIDN'T RELATE TO ANYBODY THAT THERE WAS MARIJUANA NEAR THE MOBILE HOME, DID YOU?" HE RESPONDED, "NO" WHEN THE AFFIDAVIT - - AND WE HAVEN'T HEARD FROM THE AFFIANT YET - - WHEN THE AFFIDAVIT SAYS THAT THERE WAS MARIJUANA NEAR THE MOBILE HOME.

NOW, I THINK THE MAGISTRATE JUDGE IN HIS REPORT AND RECOMMENDATION CLEARED UP THE "NEAR". THE "NEAR" IS RELATIVE DEPENDING UPON IF YOU'RE IN A RURAL SETTING OR IN A SUBDIVISION SETTING, AND I THINK THAT'S THE WHOLE BASIS FOR THE THING.

NOW, WE'RE PREPARING TO GO FORWARD WITH IT , BUT WE THINK IT'S A CROCK.

MR. LAUGHLIN: THE DISTRICT COURT FOUND THAT THERE WAS AN OBVIOUS STATEMENT IN THE AFFIDAVIT THAT ACCORDING TO TESTIMONY AT THE PREVIOUS HEARING WAS UNTRUE. I MEAN, THIS IS AN AFFIDAVIT, THIS IS AN APPLICATION FOR A SEARCH WARRANT, AN AFFIDAVIT FOR WHICH IS MADE UP OF, OF THREE SENTENCES, IF YOU WILL; AND ONE OF THOSE SENTENCES, WE'VE DEMONSTRATED AT THE PREVIOUS HEARING, IS, IS JUST NOT TRUE.

MR. RICKER: YOUR HONOR, ADDITIONALLY, I'D LIKE TO STATE THAT, ONE, IS THAT THE AFFIDAVIT WAS ADMITTED INTO EVIDENCE AT THE LAST HEARING

AND THAT WAS SWORN AT THE TIME, AND I GUESS THE ADMISSION WAS STIPULATED BY THE GOVERNMENT; AND AT THAT TIME WE, AT LEAST I ARGUED THAT, THAT PARTS OF THAT WAS RECKLESS IN NATURE; THAT - - AND MR. SMITH RESPONDED TO THAT AT THAT HEARING. LIEUTENANT CRUMLEY DIDN'T, YOU KNOW, DIDN'T MAKE ANY EQUIVOCAL STATEMENT, BUT SAID, NO, NE DIDN'T MAKE THAT STATEMENT THAT IT WAS NEAR THE RESIDENCE; AND I THINK THAT WE HAVE MADE AN ADEQUATE SHOWING THAT THAT STATEMENT IS, YOU KNOW, AT LEAST BY A PREPONDERANCE OF THE EVIDENCE THAT WAS SUBMITTED AT THAT HEARING, THAT THAT WAS EITHER FALSE OR RECKLESS AS TO THE TRUTH OR THE VERACITY OF THAT STATEMENT THAT WAS IN THE AFFIDAVIT. THEREFORE, TAKING A LOOK AT THE AFFIDAVIT NOW AND STRIKING THE PORTIONS THAT WE HAVE SHOWN BY A PREPONDERANCE OF THE EVIDENCE THAT'S, THAT'S EITHER FALSE OR RECKLESS IN NATURE, THEN LOOK AT THAT, SEE WHETHER THERE'S PROBABLE CAUSE, AND THAT'S THE REASON FOR THE FRANKS HEARING.

THE COURT: THE ORDER OF JUDGE HULL CAN BE READ ONE OF TWO WAYS, AND I FRANKLY DON'T KNOW HOW TO READ IT; SO I WILL JUST HEAR THE PROOF TODAY, THE TRAILS, PATHS, ROAD ISSUE. I WILL ANSWER - - I WILL MAKE A REPORT AND RECOMMENDATION WITH REFERENCE TO BOTH, AND DISTRICT JUDGE HULL CAN DO WITH IT WHAT HE WISHES; THAT'S ALL I KNOW TO DO.

It was unclear to us who was the most surprised by the spectacle Judge Hull had created, U.S. Attorney Smith, Magistrate Inman, or us. Att. Smith stuttered and stammered as if he weren't sure if he'd been shot, screwed, or powder burnt. Magistrate Inman couldn't muster anything much better and we were in shock. We weren't so much in shock that we didn't thoroughly enjoy watching the government squirm. Att. Smith required a new tube of chapstick, it would seem to us, after all the butt kissing he put on Magistrate Inman but as time would pass there would become little wonder why. The only thing was, neither was Chief Judge Hull's daddy, he could do as he pleased. As was our understanding, prior to this day there had never been a *Franks hearing* held in this Court. Things wouldn't improve as the testimony was given on the part of the government witnesses. They didn't anticipate the hearing either. The last thing they knew about there appearance on that day was a trial date. You know the part that would really make a mess of things that was anticipated in ordering the hearing under seal? If they, the government witnesses, had no forlorn warning it might be expected they'd give further false testimony; and that was exactly what was going to happen. Don't worry though Magistrate Inman had the super big box of crayons we all wanted as children and he could color things anyway he wanted.

After Att. Smith's temper tantrum I took the witness stand, after Att. Laughlin had announced to the Court that I would be the only witness the defense would be offering. At least Att. Ricker did state to the Court that there were a couple of officers also that we might call in rebuttal. Remember the letter we wrote prior to the hearing and why? Remember the ethics that our Attorney's are suppose to adhere to and who is suppose to make the decision's on representation? Do you recall that those decision's are suppose to be binding upon the attorney as long as the request is within the confines of the law. Well guess what? If the Court dictates to you who your representation is and deny's any factual basis you present that those appointed you fail to keep their end of the bargain you're just shit out of luck . Although those who we had pursued

our attorney's to have testify in our defense were present that day in the courthouse they chose not to call a single one to the stand. Witnesses who could have corroborated my testimony before the Court in this most important hearing. A hearing that would decide issues that would more than likely sway the outcome of the whole case. When I took the stand my testimony was incorporated into a drawing, as directed by the Court, which reflected the geological location of all the elements that made up my contention that the government was misleading the Court in every aspect in their pursuit of validating an illegal warrant. Remember that there is a drawing , held by the government as evidence; unchangeable by us or them, that has yet to come before the Court. Att. Laughlin had already ask the Court that the rule be enacted by which none of the would be witnesses for the government be permitted in the courtroom during testimony for obvious reasons.

The testimony I gave that day was consistent with that which I had given on January 4,2000 before this same Court, this same Magistrate. The truth isn't hard to remember when your freedom and everything you hold essential to your way of life is at stake. More importantly I gave an oath to tell the truth. I testified that we had witnessed the helicopter search and where geologically it had taken place pointing out several natural and manmade elements the Court had already viewed on January 4 in the video tape we made. I told the Court, in reference to the drawing, how I arrived at the distances I gave from one location to another. My cousin, who would later testify at trial, and I left nothing to chance. We'd taken a reel type tape and measured from location to location. The drawing held in evidence, which we had attempted to bring to the Courts attention on January 4, was remarkably accurate in what it depicted. All I had to do was reiterate the story it told. The drawing I made for the Court was very detailed, as was the one the government desired to keep from the Court. The government would only ask me four questions. What Att. Smith ask was if the location I'd marked on the drawing as #1, where I'd initially saw the helicopter, if I knew who's property that would have been on. I responded that I did not know. There were two other people who owned property across the creek and although the government had, and would continue to contend, the marijuana was at a much less distance from our land than it actually was. I need to state that we had repeatedly attempted to get our Attorney's to somehow introduce the governments drawing into evidence they had been unable to do so. Lieutenant Crumley then took the stand and testified to the events of June 23,1999. During his testimony a 35mm color picture was admitted into evidence that he testified depicted what he had relayed to Captain Lawson in reference to where the marijuana was located. Although he had testified earlier **on January 4 that he had relayed to no one that the marijuana was near our residence** now he testified,

“Q .DID YOU, WHEN YOU RELATED THAT IT WAS IN THE WOODS THERE, DID YOU INDICATE ANYTHING WHATSOEVER AS IT RELATED TO THE RESIDENCE?

A. NOT OTHER THAN IT WOULD JUST BE IN THE WOODS NEAR THIS TRAILER HERE.

Lawson was not looking at the picture Lt. Crumley described to the Court when he gave oath for the warrant and Att. Laughlin objected to it's entrance on that basis but the Court overruled. Att. Laughlin also had pictures, taken from our camera that showed what Crumley told to be a lie, no attempt was ever made to enter those pictures into evidence. Pictures confiscated initially by the H.C.S.D because of what they knew would truly be revealed if viewed in Court. The government took eight (8) pictures from the helicopter. Pictures that showed our residence from the air and pictures of the marijuana they found on that day. What they lacked was any picture that showed the alleged paths or trails that tied our residence to the marijuana. It seemed to

me that might have been of great importance, don't you think? The questions ask to Lt. Crumley , and the answers given, in regard to the landmarks in the pictures got even beyond the grasp of Magistrate Inman at one point.

THE COURT: I COULD HAVE SWORN THAT WE'VE BEEN TALKING THE WHOLE TIME HERE, THE PAST FIVE MINUTES THE CREEK IS DOWN HERE SOMEPLACE. WHERE WERE YOU TRYING TO TELL ME? I'M THOROUGHLY PERPLEXED NOW.

I would like to have stood up and injected that he had everyone confused and that it was obvious to me he was making up a story as he went along. This was no different than January 4 or any other date on which the governments witnesses took the stand. They told whatever story best suited their purpose at that moment. The question I would most have liked to ask was do you believe there is a God. If they ever once took the oath they gave serious it was a secret to us.

The testimony Crumley gave each time he took the stand, in my opinion, was a joke. After the Magistrate made the comment about being thoroughly perplexed Lt. Crumley ask if he might make a drawing depicting what he was testifying to. The Court replied that he could, and so it was that exhibit three was entered into evidence. As I review the transcript of February 15,2000 I can't help but think that Att. Smith was trying to get to the bottom of , what the definition of is, is.

As Lt. Crumley wove his web with his drawing at one point the Court again reflected it's confusion as to the tangled tale he told.

THE COURT: I KNOW; BUT I THOUGHT YOU JUST TOLD ME THE CREEK WAS UP HERE ON THE OTHER SIDE OF THE TREES. I'M SORRY TO BE SO DENSE, OFFICER CRUMLEY, BUT - -

The government could lead Lt. Crumley to the witness stand but they could not seem to help him keep his story straight. That was true of many other witnesses offered by the government as well as the arguments, and briefs written on it's behalf throughout proceedings within the Courts of the United States. Lt. Crumley drew in his drawing the geological location of several of the elements that I had shown in the drawing I made for the Court. Att. Laughlin would ask :

Q. NOW, YOU'RE NOT SUGGESTING THAT THERE WAS ANY MARIJUANA FOUND IN THE AREA THAT YOU'VE IDENTIFIED WITH PT; ARE YOU SIR?

A. NO.

(The question was asked in regard to the PT the Court had requested he earmark the spot at which the picnic table was located in the drawing. Before the day was out Lt. Crumley would contradict this testimony. Another serious question was ask of Lt. Crumley in regard to what Captain Lawson gave oath to in the affidavit.)

Q. AND WHEN YOU RELATED TO CAPTAIN LAWSON, YOU DIDN'T KNOW WHOSE RESIDENCE THAT WAS, DID YOU?

A. NO.

That raised a question we felt we knew the answer to. If Lt. Crumley was the one who relayed to Capt. Lawson the information reiterated in the affidavit and he didn't know the owner of the residence then how did Capt. Lawson know who to write in the affidavit ? We believed that the H.C.S.D. knew before the helicopter ever arrived that day whom they sought to arrest they just needed some pretense on which to do so. Att. Ricker would question Lt. Crumley in regard to all

the other residences in the area but Lt. Crumley suffered from memory loss regarding those residences. Two of those private residences yards bordered our property in remote location on opposing sides of our 100 acre farm. Although the drawing held in evidence did not show those residences one of those residences was much closer to the marijuana than ours. Never once did we attempt to implicate anyone else in the crime for which they sought to convict us. Two wrongs would not make a right. We, as did our neighbors, had respect for others who lived around us. We had learned from persons who watched the search, after we were transported to jail on June 23,1999, that there were plants found in the community less than 200 feet form the back door of yet another neighboring residence. The person who told us about these plants said he believed that those were attributed to us as well. Lt. Crumley did admit that some of the marijuana found that day was closer other residences than ours. It was evident that Lt. Crumley knew of the drawing yet to be seen by the Court as evidenced by his testimony in regard to the nearness to other residences.

Q. LESS THAN HALF THE PATCHES OF MARIJUANA IS CLOSER TO THE HOUSE THAN TO THE TRAILER?

A. LESS THAN HALF.

Q. OKAY. HOW MANY LESS THAN HALF?

A. I WOULDN'T KNOW WITHOUT ACTUALLY LOOKING AT THE DIAGRAM.

MR. RICKER: OKAY. ONE MOMENT, YOUR HONOR.

Q. WHAT DIAGRAM ARE YOU TALKING ABOUT, OFFICER, THEY'VE NOT BEEN INTRODUCED YET?

DO YOU HAVE THE DIAGRAM?

A: NO.

MR. RICKER: ONE MOMENT, YOUR HONOR.

PASS THE WITNESS, YOUR HONOR.

That was close wasn't it. Crumley, being the moron that in our opinion he was, had almost let the cat out of the bag. I think Att. Smith would like to have slapped him but it would not have been very professional on his part. The reason Att. Ricker ask for a moment was the fact we were about to do flips in the courtroom realizing what had almost taken place. It was a good thing for us he hadn't pushed Crumley over the edge wasn't it?

MR. SMITH: NO ADDITIONAL QUESTIONS, YOUR HONOR.

THE COURT: THANK YOU, LIEUTENANT.

LET'S TAKE ABOUT A FIVE MINUTE RECESS.

(RECESSED AT 10:30 A.M., UNTIL 10:39)

Your bright aren't you? Why would the Court choose this opportune time to take a recess in a hearing held under seal? Capt. Ronnie Lawson would be next to take the stand. Officer Lawson would testify in regard to Exhibit 5 (the affidavit for the search warrant) .

Q. LOOKING AT EXHIBIT 5, WHAT WAS RELATED TO YOU THAT WAS INCLUDED IN EXHIBIT 5?

A: FROM LIEUTENANT CRUMLEY?

Q. YES, SIR.

A. THAT HE SAW NUMEROUS MARIJUANA PLANTS GROWING JUST, TO ME WAS NEAR THE RESIDENCE.

Q. WHAT DID HE SAY TO YOU, SIR?

A. HIS ACTUAL WORDS, THE BEST I RECALL, WAS ACROSS THE CREEK IN A WOODED AREA THAT WAS CONNECTED BY A ROAD.

Q. AND YOU'VE INDICATED IN YOUR AFFIDAVIT, YOU USED THE WORD "NEAR" THE RESIDENCE?

A. YES, SIR.

Q. WHERE DID THAT COME FROM?

A. FROM ME.

Q. ALL RIGHT, SIR.

Captain Lawson was between a rock and a hard place and so was the government. The fact was that Crumley had never told him the marijuana was near the residence and he himself had just testified so. The fact was, as Capt. Lawson would testify on the same day under cross examination, Lt. Crumley had actually told him there was no marijuana plants around the trailer; that it was on the backside. There was another serious chink in the governments armor Att. Smith realized it just as we had. In his affidavit he said the information he received was from Lt. Crumley. Lt. Crumley had testified that he did not know who's property the marijuana was on . Then how did Capt. Lawson know what name to put on the affidavit. Att. Smith would ask the following series of questions in an attempt to cover yet another blunder on the part of Crumley

Q. NOW, THERE WAS NO INDICATION AT THE TIME THAT YOU HAD YOUR DISCUSSION WITH LIEUTENANT CRUMLEY AS TO WHO OWNED THE PARTICULAR PROPERTIES OR RESIDENCES; IS THAT CORRECT?

A. I DON'T THINK I GOT THE CARPENTERS' NAMES FROM HIM.

Q. YOU LEARNED OF THE CARPENTERS LATER ON; IS THAT CORRECT?

A. YES, SIR.

Q. OKAY. YOU DID NOT HAVE THAT INFORMATION FOR THE, THE ISSUING MAGISTRATE JUDGE?

A. EXCUSE ME?

Q. YOU DID NOT HAVE THE NAMES OF THE CARPENTERS FOR THE ISSUING MAGISTRATE JUDGE; ISN'T THAT CORRECT.

THE COURT: SESSION COURT JUDGE.

A. I HAD THE NAME OF LONNIE CARPENTER ALIAS WHEN I GOT THE WARRANT ISSUED.

Q. WELL, THEN I'M ASKING YOU, YOU DID HAVE HIS NAME?

A. YES. IT'S ON THE AFFIDAVIT.

Q. OKAY. NOW, WHERE DID YOU GET THAT INFORMATION?

A. I BELIEVE IT WAS FROM OFFICER GERALD GIBSON, BEST I REMEMBER.

It was like pulling a tooth for Att. Smith to drag an acceptable answer from Capt. Lawson wasn't it. The answer he finally gave could not have happened either. Off. Gibson was in the helicopter with Crumley taking the pictures and Lt. Crumley had to land the helicopter to call Capt.

Lawson. Since the helicopter immediately went back into the air with Gibson on board he could not have relayed to Capt. Lawson that the name he needed was mine. Gibson would later testify at trial that on that day, the day Lawson gave the infamous affidavit, June 23,1999; that he did not know to whom the property belonged. That was a different day though and right now the government is trying to figure out what story to tell to save an invalid search warrant. Didn't Lawson's memory take a hit when it came to who told him our name was the one he needed to apply to the affidavit. So where did that information Come from. Capt. Lawson was drug into the job of Captain on Sheriff Wayne Clevenger's coattail when he was elected as the Sheriff. Captain Lawson testified earlier that day that he was hired in as Chief or Captain as soon as Clevenger was elected. Att. Laughlin realized the snag in the fabric as well. He ask the questions as follows:

Q. AND YOU'RE CLAIMING THAT LIEUTENANT CRUMLEY SAID THAT HE HAD LANDED THE HELICOPTER?

A. THE FIRST TIME I WAS NOTIFIED WAS ON THE RADIO THAT HE NEEDED A SEARCH WARRANT, HE HAD TO LAND AND GET ON THE TELEPHONE SO WE COULD HAVE THE CONVERSATION AS TO WHERE THE MARIJUANA PLANTS WAS LOCATED AND EXACTLY WHAT HE HAD SAW.

Q. WAS HE ON A CELL PHONE OR WAS HE TALKING ON A , ON A REGULAR PHONE, OR DO YOU KNOW?

A. I DON'T - - I COULDN'T TELL YOU EXACTLY WHICH ONE IT WAS.

Q. WHAT TIME WAS IT?

A. IT WAS IN THE AFTERNOON, I BELIEVE.

Q. AND HOW LONG WAS IT BEFORE YOU FILLED OUT, AFTER YOUR CONVERSATION WITH LIEUTENANT CRUMLEY, THAT YOU FILLED OUT THE AFFIDAVIT?

A. I STARTED IMMEDIATELY ON THE AFFIDAVIT, AS SOON AS I GOT OFF THE PHONE WITH HIM.

Q. BUT YOU HAD TO LEARN, YOU HAD TO LEARN WHOSE NAME TO PUT ON THE APPLICATION?

A. RIGHT.

Q. RIGHT?

A. RIGHT

Q. DID YOU LEARN THAT BEFORE YOU COMPLETED THE APPLICATION?

A. YES; BEFORE I EVER STARTED, YES, SIR.

Q. SO AFTER YOU HAD THE CONVERSATION WITH HIM, THEN YOU SET ABOUT TRYING TO FIND OUT WHOSE PROPERTY IT WAS, ALLEGEDLY BELONGED TO; IS THAT RIGHT?

A. RIGHT.

Q. AND THEN IT WAS ONLY AFTER THAT THAT YOU THEN FILLED, ATTEMPTED TO FILL OUT THE APPLICATION?

A. YES.

No part of Capt. Lawson's affidavit had any truth in it. The government's own evidence would substantiate that fact if only we could get the drawing/map into evidence. We'd came close but Att. Smith and the H.C.S.D. had tiptoed around that evidence so far. Still the testimony and evidence

put before Magistrate Inman, to us, at the time seemed overwhelming. How could someone “neutral and detached” not see it all for what it was? Att. Smith knew the possible consequence should that piece of evidence come into play. It would show the whole thing was a sham. Before the day was over he’d attempt to knock the map forever from the view of the court. Now is the time to spill the beans on the ethics that call out what Att. Smith is required to do by the Courts. See if you believe, after the upcoming events, Att. Smith is ethical or maniacal. You make the call, I got so pissed off I may not have been able to see things clearly. After all we’re just a couple of dumb hillbillies in need of being put in our place. The arguments that follow, like much stated before, come from the transcript of February 15,2000.

MR. LAUGHLIN: YOUR HONOR GIVEN THE TESTIMONY THAT IS INCLUDED IN TRANSCRIPT OF THE PREVIOUS HEARING, AS WELL AS THE TESTIMONY THAT YOUR HONOR HAS HEARD HERE TODAY, WE BELIEVE THAT THE TESTIMONY TO BE THAT LIEUTENANT CRUMLEY HAS NOT, HAS NOT RETRACTED HIS PREVIOUS TESTIMONY; THAT HE DID NOT EVER TELL ANYONE THAT HE HAD OBSERVED MARIJUANA NEAR THE MOBILE HOME. THIS GENTLEMEN, WHO WAS THE AFFIANT ON THE SEARCH WARRANT WHO JUST TESTIFIED, JUST TOLD US RIGHT BEFORE HE LEFT THE WITNESS STAND THAT LIEUTENANT CRUMLEY NEVER TOLD HIM THAT THERE WAS ANY MARIJUANA AROUND THE MOBILE HOME. HE SAID THAT LIEUTENANT CRUMLEY TOLD HIM IT WAS ON THE BACKSIDE YOUR HONOR, WE DON’T KNOW HOW IT COULD BE MORE CLEAR THAT THE REFERENCE, THAT THE REFERENCE IN THE FIRST SENTENCE OF THE APPLICATION TO THE STATEMENT ATTRIBUTED TO LIEUTENANT CRUMLEY THAT THE MARIJUANA PLANTS WERE, HAD BEEN OBSERVED BY HIM GROWING NEAR THE MOBILE HOME IS FALSE. IT’S NOT TRUE.

NOW, HOW IT CAME TO BE, WHETHER IT WAS INTENTIONAL OR KNOWING OR IN RECKLESS DISREGARD OF THE TRUTH, WE WOULD SUBMIT THAT IT’S GOT TO BE ONE OF THEM. THEY’RE NOT SAYING THAT IT WAS, THAT IT WAS SOME MISUNDERSTANDING BETWEEN THE OFFICER WHO WAS RECEIVING THE INFORMATION FROM LIEUTENANT CRUMLEY AND LIEUTENANT CRUMLEY HIMSELF.

FOR THE REASONS I’VE JUST STATED - - AND, OF COURSE, IN THE PREVIOUS HEARING, IN THE PREVIOUS HEARING WE SUBMIT THE TESTIMONY WAS VERY CLEAR THAT THERE WERE NO MARIJUANA PLANTS FOUND NEAR THIS ROAD OR DRIVEWAY THAT LEADS FROM CHOPTACK ROAD TO THIS FORMER BURNED RESIDENCE. THE TESTIMONY TODAY FROM MR. CARPENTER IS THAT THE NEAREST LOCATION TO WHERE MARIJUANA WAS ALLEGEDLY FOUND TO THE ROADWAY WAS APPROXIMATELY 100 YARDS AWAY. YOUR HONOR, WE BELIEVE THAT THAT EVIDENCE SHOWS THAT THE SECOND SENTENCE IN THE APPLICATION OR AFFIDAVIT, THAT THERE WAS A ROAD CONNECTING THE RESIDENCE TO THE MARIJUANA PLANTS IS ALSO UNTRUE; AND AS WE UNDERSTAND THE PROCEDURE UNDER THE FRANKS DECISION IS THAT IF THOSE STATEMENTS ARE UNTRUE, THEN YOU EXCLUDE THOSE STATEMENTS AND DETERMINE FROM THERE IF THERE’S STILL PROBABLE CAUSE ON THE BALANCE OF WHAT’S LEFT TO SUPPORT THE SEARCH WARRANT.

AND, OF COURSE, THERE IS ONLY ONE SENTENCE LEFT, AND THAT IS WHERE

THE AFFIANT EXPRESSES HIS PERSONNEL OPINION ABOUT WHETHER OR NOT A SEARCH SHOULD BE CONDUCTED. IT CONTAINS NO FIRST- HAND INFORMATION NOR NO RELATED INFORMATION EXCEPT THAT LIEUTENANT CRUMLEY IS CERTIFIED IN, ALLEGEDLY IN THE IDENTIFICATION OF MARIJUANA.

WITH THOSE FIRST TWO SENTENCES DELETED, YOUR HONOR, THERE IS NO PROBABLE CAUSE. IT WOULD ONLY BE SOME SORT OF SUSPICION AT BEST, AND, OF COURSE, THAT DOESN'T, THAT DOESN'T MAKE PROBABLE CAUSE; AND FOR THOSE REASONS WE SUBMIT THAT THE SEARCH WARRANT WAS INVALID AND THAT THE SEARCH CONDUCTED PURSUANT THERETO SHOULD BE, ALL THE EVIDENCE SHOULD BE SUPPRESS.

MR. RICKER: YOUR HONOR, I THINK THAT I'D LIKE TO REITERATE SOME OF MY EARLIER ARGUMENTS IN THE OTHER HEARING ABOUT THERE'S NOTHING WE'VE HEARD IN TWO HEARINGS THAT WOULD SUGGEST THAT THERE WAS ANY MARIJUANA IN THE RESIDENCE THAT WAS SEARCHED - -

IN EXHIBIT NUMBER 3 THAT YOU'VE GOT TODAY TO - - THE PHOTOGRAPHS, AND I BETTER CHECK AND MAKE SURE THAT'S THE CORRECT EXHIBIT, BUT THERE'S TWO HOUSES, A HOUSE AND A MOBILE HOME, LIEUTENANT CRUMLEY TESTIFIED SOME OF THE MARIJUANA PLANTS WERE NEARER THE HOUSE THAN THE MOBILE HOME. IT WOULD HAVE BEEN JUST AS LOGICAL TO SEARCH THE HOUSE AS IT WAS TO SEARCH THE MOBILE HOME. LIEUTENANT CRUMLEY HAS TESTIFIED UNDER OATH THAT HE DIDN'T TELL CAPTAIN LAWSON THAT THE MARIJUANA WAS NEAR THE RESIDENCE BECAUSE THAT'S JUST NOT TRUE. THERE'S MARIJUANA JUST AS CLOSE TO THE HOUSE ADJACENT TO THE MOBILE HOME AS TO THE MOBILE HOME, AND I DON'T THINK THERE'S PROBABLE CAUSE ON THE AFFIDAVIT, PERIOD. HOWEVER, WHEN YOU TAKE THE TESTIMONY OF CAPTAIN LAWSON AND LIEUTENANT CRUMLEY ABOUT WHERE THE MARIJUANA ACTUALLY WAS THAT HE SPOTTED AND YOU TAKE THAT OUT, AND THERE'S A CASE UNITED STATES VERSUS BENNETT THAT, WHERE THE SIXTH CIRCUIT LOOKS AT STRIKING THAT, AND YOU JUST DON'T HAVE PROBABLE CAUSE, ESPECIALLY WHEN YOU TAKE OUT THAT RECKLESSLY FALSE STATEMENT THAT'S IN THE AFFIDAVIT, WHEN THAT'S STRUCK, IT REALLY - - THERE'S JUST NOTHING LEFT THAT ANY NEUTRAL AND DETACHED MAGISTRATE COULD READ AND SAY, WHEN I READ THIS, THEN I THINK THAT THERE'S MARIJUANA IN THAT TRAILER. IT COULD JUST AS EASILY SAY IN THAT HOUSE OR THE HOUSE ACROSS THE STREET OR THE OTHER HOUSES ON PRICE HOLLOW LANE. THERE'S SOME MARIJUANA OUT IN WOODS ACROSS THE CREEK. WE'D ASK IT BE SUPPRESSED, YOUR HONOR.

MR. SMITH: INITIALLY THE REPORT AND RECOMMENDATION FIRST ISSUED BY THIS COURT SUGGESTED THAT THERE WERE PATHS AND TRAILS THAT CONNECTED THE MARIJUANA PLANTS TO THE, THE ROAD AND THEN TO THE RESIDENCE OF THE CARPENTERS. THERE WAS NEVER ANY INFORMATION IN THE AFFIDAVIT PROVIDED BY CAPTAIN LAWSON THAT TALKED ABOUT PATHS AND TRAILS. THE GOVERNMENT'S RESPONSE TO THAT OBJECTION OF THE REPORT AND RECOMMENDATION WHERE THE COURT IN THIS INSTANCE HEARD PATHS AND TRAILS WAS JUST VERY SIMPLY THIS, THERE WAS OBVIOUSLY A DISCONNECT BETWEEN THE ROADS AND THE PATHS AND TRAILS BECAUSE WHEN

YOU SAW THE VIDEOTAPE THAT WAS INTRODUCED BY THE DEFENDANT, THE ROAD LOOKS VERY MUCH LIKE A PATH OR A TRAIL; AND THAT, OF COURSE, WAS THE GOVERNMENT'S EXPLANATION FOR THE COURT'S MAKING THAT DETERMINATION WITH REGARD TO PATH AND TRAIL. I THINK THAT THAT WAS JUST A MISSTATEMENT IN THAT THE TRAIL AND THE PATH LOOKS A WHOLE LOT LIKE THE ROAD OR VICE VERSA.

IT'S THE GOVERNMENT'S POSITION THAT THE INFORMATION CONNECTING THE MARIJUANA PLANTS TO THE ROAD THAT'S CONNECTED TO THE RESIDENCE IS SUFFICIENT FOR PROBABLE CAUSE, WHICH LEADS US THEN TO THE QUESTION OF THE FRANKS V. DELAWARE HEARING, WHICH I DON'T THINK WE SHOULD EVEN BE AT. APPARENTLY THE DISTRICT COURT DISAGREES AND SUGGESTS THAT A FRANKS V. DELAWARE HEARING IS, IS AN APPROPRIATE VEHICLE UNDER THE CIRCUMSTANCES. EVEN THOUGH THE DEFENDANTS NEVER DEMONSTRATED IN A SUBSTANTIVE WAY THAT THERE WAS ANY KIND OF MISSTATEMENT OR RECKLESS DISREGARD FOR THE TRUTH IN THE AFFIDAVIT, WE ARE HERE ANYWAY; AND NOW IT IS THE GOVERNMENT'S OPINION THAT THE COURT HAS ALREADY DEALT WITH, IN ITS ORIGINAL REPORT AND RECOMMENDATION, WITH WHAT I BELIEVE TO BE SEMANTICS IN THIS PARTICULAR INSTANCE; AND THAT IS THE QUESTION OF NEAR. IT'S SORT OF LIKE, IT'S SORT OF LIKE, IT'S SORT OF LIKE WHAT IS "IS", WHAT IS "NEAR"; AND AS THE COURT IN ITS REPORT AND RECOMMENDATION INDICATED, NEAR IS A RELATIVE TERM WHEN I START TALKING ABOUT A RURAL COMMUNITY AS OPPOSED TO A SUBDIVISION AND THAT KIND OF THING; SO THE QUESTION THEN BOILS DOWN TO WHETHER OR NOT CAPTAIN LAWSON IN PREPARING HIS AFFIDAVIT WAS UNTRUTHFUL OR PREPARED THAT AFFIDAVIT IN RECKLESS DISREGARD OF THE TRUTH; THAT'S WHAT FRANKS V. DELAWARE TEACHES; BUT WHAT THE COURT SAYS, THE SIXTH CIRCUIT HAS INDICATED IS, IS THAT A DELIBERATE FALSEHOOD, A DELIBERATE FALSEHOOD OR A RECKLESS DISREGARD FOR THE TRUTH MUST BE PROVED FIRST BY A PREPONDERANCE OF THE EVIDENCE, AND IT'S UPON THE DEFENDANT TO PROVE BY THAT PREPONDERANCE OF THE EVIDENCE THAT THERE HAS BEEN A PARTICULAR DELIBERATE FALSEHOOD AND A RECKLESS DISREGARD FOR THE TRUTH BEFORE THEY'RE GOING TO WIN UNDER THE FRANKS STANDARD BEFORE THEY'RE GOING TO BE ABLE TO DEMONSTRATE THAT THEY SHOULD HAVE THIS SEARCH WARRANT SUPPRESSED; THAT IS THAT THERE WAS THAT DELIBERATE FALSEHOOD OR THAT RECKLESS DISREGARD FOR THE TRUTH; AND THERE'S JUST ABSOLUTELY NO PROOF, NOT JUST BY A PREPONDERANCE OF THE EVIDENCE, THERE IS NO PROOF OF THAT BECAUSE CAPTAIN LAWSON, LIEUTENANT CRUMLEY, THE MAGISTRATE COURT IS DEALING WITH SEMANTICS, WITH NEAR, WHAT IS NEAR UNDER CIRCUMSTANCES. CAPTAIN LAWSON DIDN'T ATTEMPT TO DECEIVE ANYBODY, HE DIDN'T ATTEMPT TO RECKLESSLY DISREGARD ALL OF THE INFORMATION THAT HE HAD FROM LIEUTENANT CRUMLEY AND JUST WILLY-NILLY PUT THIS SEARCH WARRANT TOGETHER.

NOW, ACCEPTING THAT, THEN YOU DON'T HAVE A FRANKS V. DELAWARE PROBLEM. IF THE COURT DISAGREES WITH THE GOVERNMENT'S POSITION IN THAT REGARD, YOU STILL HAVE TO GO BACK TO THE LEON EXCEPTION TO THE

EXCLUSIONARY RULE, WHETHER OR NOT THERE HAS BEEN GOOD FAITH DEMONSTRATED HERE. WHAT THE EVIDENCE TODAY HAS DEMONSTRATED IS THIS, CAPTAIN LAWSON TOOK THIS AFFIDAVIT THAT HE PREPARED, AND IN THE GOVERNMENT'S OPINION TRUTHFULLY CORRECTLY AND AS ACCURATELY AS HE POSSIBLY COULD UNDER THE CIRCUMSTANCES OF MARIJUANA ERADICATION, AND TOOK IT TO OFFICERS ON THE GROUND AND GAVE IT TO THEM, GAVE IT TO THEM TO EXECUTE; AND LEON SAYS THAT THE EXCEPTION TO THE EXCLUSIONARY RULE APPLIES SO LONG AS THE MAGISTRATE, IN THIS PARTICULAR INSTANCE THE SESSIONS COURT JUDGE, HAS NOT ABANDONED HIS NEUTRAL ROLE; AND THERE'S OBVIOUSLY NO EVIDENCE THAT HE HAS ABANDONED HIS NEUTRAL ROLE; THAT THE OFFICER HAS NOT BEEN DISHONEST OR RECKLESS IN PREPARING THE AFFIDAVIT. AGAIN, THERE'S NO EVIDENCE THAT CAPTAIN, THAT CAPTAIN LAWSON ACTED IN A DISHONEST OR RECKLESS MANNER IN PREPARING THAT AFFIDAVIT; JUST CONFUSED AS TO WHAT NEAR IS, WHAT IS, IS; AND THEN THERE IS SUFFICIENT INDICIA, AND THEY AGAIN IS THE PEOPLE WHO ARE ACTUALLY EXECUTING THE SEARCH WARRANT OF PROBABLE CAUSE TO PERMIT A REASONABLE BELIEF IN ITS EXISTENCE, AND WE SUBMIT TO YOU THAT EVEN IF YOU BELIEVE THAT FRANKS V. DELAWARE MAY BE APPROPRIATE UNDER THESE CIRCUMSTANCES, A POSITION THAT THE GOVERNMENT CLEARLY OPPOSES, THEN WE BELIEVE THAT LEON ALSO SAVES THE SEARCH WARRANT, AND WE BELIEVE THAT THE MOTION TO SUPPRESS THE SEARCH SHOULD BE DENIED.

I just had to take a break at this point in the transcript and say that I just have to hand it to Att. Smith. He was out brown nosing our attorney's hands down. It wasn't even contestable I don't believe. I couldn't help but wonder reflecting back now why he just didn't say, oh and Magistrate Inman your so smart, and you should be the big daddy instead of that mean old Judge Hull. Oh, oh and did I tell you your more handsome than him and could I give you a hug. He was as good as I've ever seen. You know what scared the hell out of me? It appeared to me that Inman was just basking in the glory. It's easy to yuck it up now. Come on laugh with me. I couldn't laugh then I had just somehow lost my sense of humor. There was that smell in the air I talked about earlier, it stung my nose. Enough about all that, there was blood in the water. Att. Laughlin smelled it and it was about to get much thicker.

MR. LAUGHLIN: YOUR HONOR, IN RESPONSE WE'D SAY THIS IS A CLASSIC CASE WHERE THE OFFICER RECEIVED INFORMATION FROM THE HELICOPTER PILOT; BUT AS THE OFFICER TOLD US, THE HELICOPTER PILOT DID NOT TELL HIM THAT HE FOUND ANY AROUND THE RESIDENCE, INSTEAD HE BELIEVED THE OFFICER SAID IT WAS ON THE BACKSIDE. NOW, WITH THAT INFORMATION WE WOULD SUBMIT THAT IT'S HIGHLY UNLIKELY THAT THE AFFIANT WOULD HAVE BEEN ABLE TO OBTAIN A SEARCH WARRANT FOR THE RESIDENCE; AND IT'S A CLASSIC CASE OF WHERE HE REPHRASED, REFRAMED THE WORDING OF HIS AFFIDAVIT TO, IN RECKLESS DISREGARD FOR THE TRUTH AT LEAST TO WHERE THE, THE MAGISTRATE JUDGE OR THE GENERAL SESSIONS JUDGE WOULD SEE THE AFFIDAVIT AS SOMETHING DIFFERENT THAN WHAT THE FACTS ACTUALLY HAD BEEN REPORTED TO HIM WERE.

MR. RICKER: YOUR HONOR, I'D LIKE TO SUGGEST THAT YOU MIGHT LOOK AT UNITED STATES VERSUS BENNETT, SIXTH CIRCUIT 905 F.2D 931. IT'S A 1990 CASE; AND I DON'T THINK THAT ONCE THE MAGISTRATE OR SOMEONE FINDS THAT THERE'S BEEN A FALSE OR RECKLESS DISREGARD FOR THE TRUTH THAT THE LEON EXCEPTION WOULD APPLY; BUT I THINK THAT WE HAVE MADE OUR PREPONDERANCE OF THE EVIDENCE, AND AS SUCH THE SEARCH WARRANT OR THE EVIDENCE SEIZED SHOULD BE SUPPRESSED.

MR. SMITH: YOUR HONOR I CITED FROM THE CASE OF UNITED VERSUS ZIMMER, Z I M M E R WHICH IS, AT 14 F.3D 286, SIXTH CIRCUIT CASE 1994; AND UNITED STATES VERSUS AYEN, A Y E N, 997 F.2D 1150, A SIXTH CIRCUIT CASE, 1993.

The arguments were over. After that our attorney's had to address the issue with the Court of the witnesses on our part, summonsed to Court this day for what was originally suppose to be a trial. See there was a little problem with that. Having been summonsed as witnesses to testify some one owed them gas money and their time. Since Att. Laughlin had dumped, or attempted to dump, the responsibility on me to tell them they wouldn't be needed his foot was in the fire. Att. Smith was quick to point out to the Court that expense should fall upon our Attorney's. You want to hurt an attorneys feeling take some of his money. I knew it wasn't my responsibility and I wanted some of those persons here today anyway for reasons I stated earlier, for good cause I supposed. Still it made me about as popular as a terd in the punch bowl with Ricker and Laughlin, both of which didn't particularly find me to there taste anyway. Att. Laughlin couldn't dodge the issue so there's another point against me. After all that was hashed out the proceedings were adjourned at 11:21. There was still a trick left in the Courts box on that day.

Out on the courthouse steps we took a few moments to speak with family and some of those who'd come to stand up for us on that day. The topic of conversation was how well it had went for us, much to the amazement of all. Att. Smith and his clan where outside as well. Of course, they did come over to pat us on the back. They went around a corner to have their own conversation. After a moments conversation they went back into the courthouse. We should have took that as our signal to leave. A moment after they retreated back into the courthouse Att. Ricker stepped outside and spoke to Sheila and I and ask that we return to the courtroom. We knew not why but I thought maybe this whole nightmare was about over. Not!

With only Sheila and I, and the prosecution in the Court the hearing was reopened at 11:40.

THE COURT: LIEUTENANT CRUMLEY, WOULD YOU TAKE THE STAND AGAIN, PLEASE, SIR.

THE WITNESS: YES, YOUR HONOR.

THE COURT: LIEUTENANT CRUMLEY, I'M SORRY TO HAVE TO BRING YOU AND EVERYONE ELSE BACK, BUT YOUR DIAGRAM, I NEED SOMETHING ELSE ON IT. YOU'VE LOCATED ON EXHIBIT 4 THE RESIDENCE, THE CREEK, THE PICNIC TABLE OR PICNIC AREA, PT, PA.

THE WITNESS: YES, YOUR HONOR.

THE COURT: FROM YOUR PERSPECTIVE UP THERE IN THAT HELICOPTER, WOULD YOU LOCATE ON YOUR DIAGRAM THERE, THE BEST YOU CAN, THE LOCATION OF THE MARIJUANA PATCH THAT YOU OBSERVED WITH REFERENCE TO ANYTHING

ON THAT DIAGRAM.

THE WITNESS: OKAY. THIS WOULD BE WHERE THE ROAD OR THE PATH CAME UP TO THE BRIDGE.

THE COURT: GO AHEAD AND DRAW A DOTTED LINE ON THERE.

MR. LAUGHLIN: YOUR HONOR, MAY WE STAND CLOSER?

THE COURT: SURE, GO AHEAD.

THE WITNESS: OKAY. WHERE THE ROAD COMES UP, CROSS THE BRIDGE, GOES AROUND THIS WAY, THE MARIJUANA WOULD BE IN THIS AREA RIGHT HERE.

THE COURT: PUT, PUT AN "M" OUT FROM BESIDE IT, OKAY.

ALL RIGHT. THAT'S, THAT'S THE MARIJUANA PATCH YOU OBSERVED?

THE WITNESS: YES, YOUR HONOR.

THE COURT: YOUR BEST ESTIMATE, LIEUTENANT CRUMLEY, FROM THE ROAD TO THE MARIJUANA PATCH, WHICHEVER WAY YOU CAN BEST DO IT, WHAT'S THE DISTANCE?

THE WITNESS: I'M SORRY ASK, ME - -

THE COURT: HOW FAR FROM EITHER THE ROAD OR THE PICNIC AREA, YOU PICK IT, TO THE MARIJUANA PATCH?

THE WITNESS: FROM THE ROAD, APPROXIMATELY 10, 15 FEET.

Remember the question Att. Laughlin ask Crumley earlier today. **Q. Now, you're not suggesting that there was any marijuana found in the area that you've identified with PT; are you sir?**

A. No. Now just a couple of hours later, with the search warrant and the whole case in jeopardy he is suggesting that it was, imagine that.

THE COURT: OKAY. HOW MANY OTHER MARIJUANA PATCHES DID YOU ULTIMATELY OBSERVE AS YOU FLEW ABOUT?

THE WITNESS: I DON'T REMEMBER THE EXACT COUNT, IT WAS SOMEWHERE AROUND 13, 14 15 DIFFERENT PATCHES.

THE COURT: OKAY, AND THAT WAS THE FIRST ONE?

THE WITNESS: YES SIR. I DISTINCTLY REMEMBER THE FIRST PATCH THAT I SAW BECAUSE THAT'S WHAT GOT MY ATTENTION THAT I SWUNG BACK AROUND; BUT THIS WAS THE FIRST ONE THAT GOT MY ATTENTION WHEN I STARTED SEEING OTHER PATCHES AS I WAS COMING BACK AROUND; BUT THIS WAS THE FIRST ONE THAT GOT MY ATTENTION WHEN I STARTED TO SWING BACK AROUND, THAT'S THE ONLY WAY I REMEMBER THE FIRST ONE.

THE COURT: OKAY, AND YOU'RE HOW FAR, YOU SAID 15 TO 20 FEET FROM - -

THE WITNESS: FROM THE ROAD.

THE COURT: FROM THE ROAD.

THE WITNESS: THE PATH OR ROAD OR PATH OR IT - - WHERE IT CROSSES THE BRIDGE THAT COMES UP INTO THE WOODS, IT HAD BEEN ABOUT 15 OR 20 FEET.

THE COURT: AND THAT IS - -

THE WITNESS: IT WAS JUST PARALLEL TO THE PICNIC AREA.

THE COURT: STRAIGHT ACROSS THE ROAD FROM THE PICNIC AREA AS YOU POINTED OUT?

THE WITNESS: YES, SIR; YES, YOUR HONOR.

THE COURT: ALL RIGHT. MR. SMITH, ANY QUESTIONS FOR HIM IN LIGHT OF WHAT I ASKED?

MR. SMITH: YOUR HONOR, I ASK THAT WE SHOW THIS SKETCH TO LIEUTENANT CRUMLEY.

REDIRECT EXAMINATION

BY MR. SMITH:

Q. LIEUTENANT CRUMLEY, DO YOU RECOGNIZE THAT SKETCH?

A: NO.

MR. SMITH: OKAY. ALL RIGHT, SIR.

A: I RECOGNIZE THE AREA; BUT AS FAR AS SEEING THIS SKETCH BEFORE, I'VE NOT PERSONALLY.

Q. NOW, HOW DO YOU RECOGNIZE THE AREA, SIR?

A. THE TRAILER, THE ROAD, THE CREEK IN REFERENCE TO THIS, TO THE SKETCH THAT I DREW.

MR. SMITH: ALL RIGHT, SIR.

THE COURT: MR. LAUGHLIN

MR. SMITH: I HAVE NO FURTHER QUESTIONS, YOUR HONOR.

I'm thinking, "**for Gods sake would someone please throw a tent over this circus.**" Oh bullshit I'm making all this up as I go along right? No, it actually happened on February 15,2000 in a courtroom in the Eastern District of Tennessee at Greeneville. But wait there's more. Remember Crumley's testimony earlier in the day when he almost let the cat out of the bag.

A. I wouldn't know for sure without actually looking at the diagrams.

Q. What diagram are you talking about officer, they've not been introduced yet? Do you have the diagram?

A. No.

Before the hearing adjourned, for the last time, Laughlin questioned Crumley in regard to the end of the road and the burned out residence but Crumley couldn't remember having seen that. **He had testified on January 4 that he could spot a three inch marijuana plant at a 1000 feet but couldn't recall the remnants of a home that burnt where the road ended.** Att. Smith presented the "sketch" to Crumley because the "sketch" made Crumley out to be a "damn liar" and he sure didn't need it coming into evidence and making both of them out to be the scoundrels they truly were. We'd just been gang banged and were not in the least happy about it. We climbed all over Laughlin and Ricker about the whole circus event that had just taken place. Ricker commented well you all just had pot growing everywhere didn't you? I'm sure by the time we'd said our peace about the "sketch" and their lack of calling it into question that day they knew the certified letter we placed in the mail the following mourning was coming. Before I type in the letter we wrote our attorney's I'd like to talk about U.S. Attorney Smith. Magistrate Inman had spoken, back on December 13,1999 at the hearing held regarding our motion for substitute council, about the ethics attorney's are suppose to adhere to. Here's something regarding those ethics where Attorney Smith comes into focus. I'm quoting from the canon's of ethics established by I believe the Supreme Court "**Disciplinary Rules Dr 1-102. Misconduct (A)**A lawyer shall not :(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation." also quoting from the Canon of Ethics EC 7-13 "(3) In our system of criminal justice the accused is to be given the benefit of all

reasonable doubts. With respect to evidence and witnesses, the prosecutor has responsibilities different from those of a lawyer in private practice; the prosecutor should make timely disclosure to the defense of available evidence, known to the prosecutor, that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment. Further, a prosecutor should not intentionally avoid pursuit of evidence merely because the prosecutor believes it will damage the prosecutors's case or aid the accused." What do you think? You reckon Att. Smith is ethical as the Courts demand. What action do you imagine Magistrate Inman took in regard to Smith. None. In my opinion Inman was just as big a scoundrel as Smith. Now that's "neural and detached" Magistrate Inman of whom I speak. Kind of a good ole' boy network don't you think. It expanded well beyond the Eastern District of Tennessee, but that's a part of the story to be told another day. Here's the letter we wrote after the hearing on February 15.

Feb. 15,2000

Dear Sirs,

After the hearing today I have a few comments.

Crumley: 12 to 15 feet from the road

Page42 line 17_25

Q. Sir, from any, from any position on the roadway to any of the patches that you actually visited and actually observed, can you describe the distance for the Court between the old roadway and the patch, or patches?

A. Up at the point where Mr. Carpenter was talking about the picnic table and his hammock, I would estimate from that point looking toward the old house on the right side marijuana patch approximately, I'd say approximately, I'd say approximately 20 yards or so.

Page 43 line 14

A. None was found right on the roadway.

Page 45 line 3-11

A. Between the, I'm sorry, between the recreational area and the first marijuana patch that I was led into, there was an old fence that had been down for quite sometime; I mean, it was grown up, the strands were rusty and for the most part it was on the ground.

Q. And the marijuana was on the other side, you had to amulate across that fence to get to the patch of marijuana.

A. Yes, sir.

Page 44 line 12

A. No sir. It was pretty much to the right of it. It wasn't - - It was not on past it.

Crumley

Page 50 line 2-4

The witness: and it comes down to the recreational area that he was describing, and then the other paths go from there that lead to the marijuana.

YOUR CLIENTS
SHEILA & LONNIE CARPENTER

The next morning we mailed the letter when the post office opened. We had no doubts what so ever as to why Lt. Crumley was placed back on the witness stand. The only way left for the government to validate the search warrant was to attempt to substantiate the affidavit's contention that the road connected our residence to the marijuana. Although the government witness, Officer Larkin, had testified on January 4 "**A. The - - Like Mr. Carpenter said, it was an old roadway going up to the house.** To the best of my recollection though before you got to the old house, off to the right it was a small, more of a beaten down path where people had walked through brush and some thicket leading to the marijuana."Magistrate Inman had viewed the video tape which showed vegetation eaten down to the dirt, by our cattle, to the right of the roadway for twenty yards. Larkin had testified that he had to travel beyond that point through brush and a thicket to where the first marijuana was. Yet Crumley had retaken the witness stand, after having testified earlier that there was no marijuana in the vicinity of the picnic area, a second time and testified it was only 15 to 20 feet from the road. We were in Greeneville On the morning of February 16, taking care of some business, when my father saw us. He stopped us and said that our attorney's were trying to locate us that the Court was going to reopen the hearing. When we contacted Att. Laughlin that day he said he'd filed a motion in the Court, that being the reason for the reopening of the hearing. The ball of lies that had been gaining size as it rolled down the hill was about to get a lot bigger. This is the motion Att. Laughlin filed on February 16,2000.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

UNITED STATES OF AMERICA,)	
)	
V.)	No. 2:99-CR-45
)	
LONNIE CARPENTER, ET AL. ,)	(INMAN/HULL)
)	
DEFENDANTS)	

DEFENDANT LONNIE CARPENTER'S MOTION TO
REOPEN HEARING ON MOTION TO SUPPRESS

Comes the defendant Lonnie Carpenter and moves the Court to reopen the hearing on the defendants' motion to suppress for the reasons as follows: After that hearing was previously concluded, the Court chose to reopen the same and recall Lt. Crumley, who

When I show people decisions, or portions of decisions wrote on the case United States v. Carpenter many of them tended not to believe what they've read. Well that's why we've kept and maintained the complete and entire record. There were even attempts, on the part of whom I can't say; or at least maybe should not say whom I believe made those attempt, to recover that documentation. Considering all the deceit we saw on the part of our accusers from day one we even considered that possibility. We decided that we'd make certain that did not happen so we steadily dispersed copies of those documents in different locations. One of those locations wasn't even in our home state. Do you think you have a right to Court transcripts? Well you do. The problem is those transcripts cost a considerable amount. Knowing the rules of Court helps. Once the government leaned on the only equity we had , our farm, we filed the appropriate forms and were declared indigent by the Court. When the Court did so, filed the Order of Protection on the farm, they did us a favor. They did us a favor because after being declared indigent we could file for the transcripts, as long as cause was shown, under Rule 17 b. We did so many times. If you don't file for the transcripts you've made a major mistake, trust me. Call the Federal Courthouse in your area the next time that you know a trial is about to take place and ask if you can attend and bring on your person an audio recording device. I think then you might understand why. To keep everything in perspective the following is the cover page Transcript of February 16, 2000.

21
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1 UNITED STATES DISTRICT COURT
 2 EASTERN DISTRICT OF TENNESSEE
 3 GREENEVILLE

4 UNITED STATES OF AMERICA, . DOCKET NO. CR-2-99-45
 5 GOVERNMENT, .
 6 VS. . GREENEVILLE, TN
 7 LONNIE CARPENTER AND . FEBRUARY 16, 2000
 8 SHEILA J. CARPENTER, . 1:35 P.M.
 9 DEFENDANTS. .
 10
 11

12 TRANSCRIPT OF PROCEEDINGS
 13 BEFORE THE HONORABLE DENNIS H. INMAN
 14 UNITED STATES MAGISTRATE JUDGE

15 APPEARANCES:
 16 FOR THE GOVERNMENT: DAN R. SMITH, AUSA
 17
 18 FOR THE DEFENDANTS: JERRY LAUGHLIN, ESQ.
 19 WILLIAM LOUIS RICKER, ESQ.
 20
 21
 22 COURT REPORTER: KAREN J. CULBRETH
 23 RPR-RMR
 24 U.S. COURTHOUSE
 101 SUMMER STREET, WEST
 GREENEVILLE, TN 37743

25 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT
 PRODUCED BY COMPUTER.

Att. Smith was not happy about the reopening of the hearing. I believe that the Court did so for reasons I was yet to understand, but I was once again pleased and shocked. Had the sketch not been allowed into evidence, at a later date it could have been used on appeal as new evidence to bring about a whole new trial. Having stated that, the sketch still made all the sorted tales told by the governments witnesses out to be black lies. After Laughlin stated our uncertainty of the sketch's author the Court stated:

THE COURT: WELL, THIS IS THE SAME DOCUMENT THAT WAS SHOWN TO LIEUTENANT CRUMLEY YESTERDAY?

MR. LAUGHLIN: YES, YOUR HONOR IT IS.

THE COURT: HE DENIED EVER SEEING IT. IS THE AUTHOR OR DRAFTSMAN OF THIS DOCUMENT HERE WITH US TODAY ?

MR. SMITH, YOUR HONOR, THE GOVERNMENT, ALTHOUGH I'D LIKE TO STATE FOR THE RECORD THAT THE GOVERNMENT WAS UNDER NO OBLIGATION TO BRING THE OFFICER, WE BELIEVE THAT WE DETERMINED WHO THE AUTHOR OF THE DIAGRAM IS, AND WE HAVE THAT INDIVIDUAL HERE AVAILABLE FOR THE DEFENSE TO CALL. WE'D LIKE TO NOTE, HOWEVER, THAT THE DIAGRAM HAS BEEN IN THE POSSESSION OF THE DEFENDANTS A COUPLE OF MONTHS. OBVIOUSLY, IT WAS AVAILABLE TO THEM YESTERDAY. WE PROBABLY COULD HAVE DONE ALL OF THIS YESTERDAY; AND I JUST INTERPOSE THAT COMMENT, FOR LACK OF ANYTHING ELSE.

THE COURT: WELL - -

MR. SMITH: BUT OFFICER MURRELL, WE BELIEVE, IS THE AUTHOR OF THE DIAGRAM.

MR. LAUGHLIN: YOUR HONOR, I THINK THERE ARE SOME THINGS THAT HAVE TO BE EXPLAINED ABOUT THE DIAGRAM. WE , WE TRIED TO GET IT IN YESTERDAY. WE OFFERED IT TO LIEUTENANT CRUMLEY, THINKING IN HIS INVESTIGATION AT LEAST HE'D BE FAMILIAR WITH IT, HE WASN'T.

THE COURT: I THINK IT WAS MR. SMITH THAT OFFERED IT?

MR. LAUGHLIN: WELL I STAND CORRECTED; AND I REALLY THINK THERE ARE SOME THINGS ON THE DIAGRAM THAT ARE SUBJECT TO DIFFERENCE OF INTERPRETATION THAT ONLY THE AUTHOR COULD, COULD TELL US ABOUT, AND I'M PREPARED TO GO RIGHT INTO THAT, YOUR HONOR.

One thing we had already learned, in our very limited courtroom experience, never accuse a government witness of being an honest man. Att. Laughlin ask the Court, "**WE'D ASK FOR THE RULE IN THE EVENT THE GOVERNMENT INTENDS TO OFFER ANY OTHER WITNESSES.**" This hearing, Att. Laughlin had told me was to be held under seal; the government witnesses having no forlorn warning as to what the hearing was about. I can't imagine that asking for the rule to be imposed at this point would have any profound affect. I think the testimony would bear that observation out.

THE COURT : ANYONE WHO MAY TESTIFY IN THIS CASE, OTHER THAN A

REPRESENTATION OF THE GOVERNMENT AND THE TWO DEFENDANTS, WILL NOW LEAVE THE ROOM .

MR. SMITH : LIEUTENANT CRUMLEY IS OUTSIDE.

Officer Gary Murrell was called to the witnesses stand to testify in regard to the sketch. He testified that he had made the “ sketch”, that he had helped conduct the search on June23,1999. He testified that he also took photographs as he went from location to location. Officer Murrell testifies to all the items seen in the drawing. He testified about the darkened area in the drawing where the creek comes under the bridge. He testified about the picnic area and all its contents. He testified that the rectangles in the drawing were the picnic table, the hammock swing, and a chair. He testified that the lines draw still to the right of the picnic area was a ditch and that was the word scribbled, “ditch” beside it.

You just cannot anticipate false testimony in the courtroom. You go in to the courtroom believing that the truth will be told.

Q. AND DOES THAT DENOTE THAT THESE TWO LINES REPRESENT A DITCH?

A. YES.

Q. OKAY. NOW, I TAKE IT THAT THAT DITCH BECAUSE IT’S REPRESENTED BY TWO LINES, JUST AS THE CREEK IS REPRESENTED BY TWO LINES, MUST BE SORT OF WIDE; IS IT?

A. NO, NO SIR.

Q. HOW WIDE WOULD YOU SAY IT WAS ?

A. ONE STEP.

Q. ONE STEP?

A. JUST A STEP-OVER DITCH.

The ditch was as the sketch showed it, wide. In fact color pictures we’d show later, which included most of the man made items in the Murrell sketch, revealed the ditch to be nine feet wide and waist deep. Pictures made with myself standing in the ditch, by Sheila. Of course, these pictures were made only after Murrell’s false testimony before the Magistrate, and entered into evidence at trial. Who do you know that could step over it? Att. Laughlin knew this as well. He had been on the farm, both he and Att. Ricker, in the fall after their appointment as our attorney’s. The drawing was, in itself, the truth and depicted the natural elements as well as the manmade ones with an uncanny accuracy. So well so, that I personally do not believe that it was made on the ground or necessarily that day. The main reason I don’t believe the sketch was made that day, on the ground, is because the meandering line drawn between what Off. Murrell testified as the marijuana patches would have been all but impossible. He would later, at trial, testify that the meandering line was a trail that went from one patch to the next. To the right of our property boundary lay an absolute jungle of vegetation and overgrowth. Also the lay of the creek, road, and picnic area in relationship to one another. This was late June in Tennessee the date the sketch was made. The overgrowth of trees and bushes along the creek itself is so dense as to prohibit vision more than fifty yards. I believe the “sketch” was made from the air and Off. Murrell just filed in the blanks as to the number of plants in each location. Although Lt. Crumley had denied having seen

the sketch just yesterday he would later testify at trial he seen it months before at the discovery showing. Oh but that's another Court appearance, right now his testimony is in pursuit of a different outcome. First he has to justify the search warrant or there might not ever be a trial. Having viewed the search with the helicopter my testimony was just as the Murrell sketch would show, the truth the truth is not hard to remember. If you tell it to start with it comes out the same each time you tell it. Lies on the other hand do not. Once again I thought seeing would be believing on the part of the Court. Lets review what is in evidence at this point that the sketch clearly shows. In evidence I mean the video tape we made for the Court, that a jury would never see. Everything else, since there's no visual proof, could be a lie. Murrell would testify that the drawing was not to scale but if you doubt that it was close to scale consider everything it shows. The thing that stood out more than anything else to us was that meandering line that Murrell later testified connected the marijuana patches. There was something it obviously did not connect. We, the defendants, to the marijuana. The path didn't start till the first patch of marijuana. In fact the path ended in the Murrell sketch at that "first" patch of marijuana. Never would our accusers tell the truth in regard to its origin. Recall all the testimony about the distances the first marijuana was found from the road prior to the entrance of the sketch on the part of the government witnesses. It was at most 15 to 20 feet per Lt. Crumley. Sgt. Larkin said approximately 20 yards from the picnic table or hammock but he crossed the fence, which bordered the ditch to the right side, and went through some brush and a thicket. Now Murrell testifies less than 40 feet from the roads edge but the sketch shows it far to the right of the "step-over ditch". If you were making a drawing, to be used in the pursuit of a criminal conviction, how would you make it? The evidence and arguments have established many truths now revealed by the sketch, but the sketch reveals more deceit than it does truth. Look now upon the sketch and see if you believe that the testimony of Lt. Crumley on the previous day was truthful.

Q. SIR, FOR THE RECORD WOULD YOU STATE YOUR NAME, PLEASE.

A. LIEUTENANT BOB CRUMLEY.

Q. NOW, ARE YOU THE SAME LIEUTENANT CRUMLEY THAT TESTIFIED YESTERDAY?

A. YES, SIR.

Q. STILL WORK FOR THE HAWKINS COUNTY SHERIFF'S DEPARTMENT?

A. YES, SIR

Q. I'D LIKE TO SHOW YOU WHAT WE'VE MARKED AS EXHIBIT NUMBER 6. DO YOU RECOGNIZE THAT DOCUMENT, SIR?

A. YES, SIR.

Q. WAS THAT SHOWN TO YOU YESTERDAY?

A. YES.

Q. NOW, YOU DENIED AUTHORSHIP YESTERDAY ; IS THAT CORRECT?

A. YES.

Q. AND YOU ALSO INDICATED THAT YOU HAD NOT PREVIOUSLY SEEN THAT DOCUMENT?

A. YES, SIR. I KNEW IT EXISTED, BUT I HADN'T SAW IT.

Q. EXCUSE ME ?

A. I KNEW IT EXISTED, BUT I HADN'T LOOKED AT IT.

Q. HAVE YOU HAD AN OPPORTUNITY TO STUDY THAT DOCUMENT SINCE YESTERDAY ?

A. YES..

I

thought when Att. Smith ask this question, "well that rule on the witnesses is really worth a lot". Crumley knew for sure what his part in today's proceedings would be. Make up a story to cover his butt on yesterday's lies. We knew from his near slip early yesterday he knew of the sketch but I couldn't imagine Att. Smith would divulge in Court that he'd had an "opportunity" to study the document before today's proceedings.

Q. NOW DOES THAT, AND NOT TO SCALE, OBVIOUSLY, BUT THE QUESTION IS DOES THAT ACCURATELY DEPICT WHAT YOU WOULD HAVE SEEN WHEN YOU WERE FLYING ON THE 23RD OF JUNE.

A. YES. PARTIALLY.

Q. OKAY. NOW, PARTIALLY, CAN YOU EXPLAIN WHAT YOU MEAN BY "PARTIALLY"?

A. WELL, IT DOESN'T SHOW ALL OF THE MARIJUANA, THE PLOTS.

Q. NOW, FROM THAT MAP OR FROM WHAT WE SEE AS EXHIBIT 6, CAN YOU IDENTIFY FOR THE COURT THE PATCH OR PATCHES THAT YOU INITIALLY SAW FROM THE AIR ?

A. THE FIRST PATCH THAT I SAW WOULD HAVE BEEN THIS PATCH.

Q. WHAT'S A NUMBER? THERE'S A NUMBER ON IT.

A. NUMBER 1.

Q. NUMBER 1. NOW, WERE YOU ABLE TO EVER SUBSEQUENTLY VISIT THAT LOCATION?

A. ON FOOT?

Q. ON FOOT.

A. NO, SIR.

Q. NOW, WERE YOU ABLE TO MAKE AN ESTIMATION IN YOUR MIND AS TO THE DISTANCE BETWEEN 1 AND THE PICNIC AREA?

A. YES.

Q. AND WHAT WAS YOUR ESTIMATION OF THAT?

A. FIFTEEN TO 20 FEET.

Q. AND CAN YOU ESTIMATE OR DID YOU ESTIMATE THE DISTANCE BETWEEN THE PICNIC TABLE AND THE ROAD YESTERDAY?

A. I DON'T BELIEVE I DID.

Q. DO YOU HAVE, DO YOU HAVE AN ESTIMATION OF THAT AT THIS TIME?

A. WELL, I REALLY CAN'T SAY FOR SURE BECAUSE IT'S BASICALLY ALL, IT'S, IT'S RIGHT THERE TOGETHER, IT'S JUST THE AREA.

Q. OKAY. SIR, WHEN YOU WERE IN THE AIR, DID YOU OBSERVE - - WERE YOU

ABLE TO SEE THE ROAD FROM THE AIR?

A. PARTS OF IT.

Q. OKAY. WERE YOU ABLE TO SEE THE PART OF THE ROAD WHERE THE BRIDGE WAS?

A. YES.

Q. OR WHERE THE BRIDGE IS DEPICTED ON EXHIBIT 6?

A. YEAH, WHERE IT'S SHOWING THE BRIDGE.

Q. TO THE LEFT OF THAT BRIDGE, AS YOU'RE LOOKING AT YOUR DIAGRAM, EXHIBIT 6, WERE YOU ABLE TO SEE ANY MARIJUANA PATCHES TO THE LEFT OF THAT BRIDGE?

A. YES.

Q. WHILE YOU WERE IN THE AIR?

A. YES.

Recall his testimony from yesterday. Yesterday he testified that the first patch he saw he "distinct" recalled was to the left of the road 15 to 20 feet, straight across from the picnic area. With today's entrance of Murrell's sketch he now recollects that the patch marked #1, to the right of the picnic area, was the first he saw. Do you believe he was at an altitude of 100 feet, as the pictures we took; now somewhere deep within the recesses of Ricker or Laughlin's pocket, showed in addition to his own testimony that he honestly mistook the distance from the road's edge to those plants was 15 to 20 feet? We didn't have a care in the world a "neutral and detached magistrate" would decide the issue. As for the marijuana that Crumley had testified on both days lay to the left of the road only a few feet, no government witness would ever testify. Early in the hearing of February 16, 2000 Off. Murrell had testified.

Q. AND THOSE PATCHES CLOSE TO THE ROAD ON THE LEFT- HAND SIDE, CAN YOU ESTIMATE FOR THE COURT HOW CLOSE THEY WERE TO THE ROAD?

A. NO. SIR. I, I DID NOT SEE THOSE. OTHER OFFICERS WENT TO THOSE, I DID NOT GO TO THEM.

Oh, but wait there was that time at the jury trial. That time he testified that not only did he see the plants to the left of the road but that he photographed them as well. That's part of the story for another day are you staying with the plot of the story told by the government today? Att. Laughlin realizes the obvious contradictions from the previous days testimony when questioning Lt. Crumley. No problem he made that drawing yesterday for the Court that will show he's lying.

MR. LAUGHLIN: YOUR HONOR, I ASK THE BAILIFF, THE CLERK, EXCUSE ME, TO HAND FOR ME, OR HAND TO ME EXHIBIT NUMBER 4, PLEASE.

THE CLERK: THOSE EXHIBITS ARE NOT HERE, YOUR HONOR.

THE COURT: I'VE GOT THEM, SOMEWHERE.

MR. LAUGHLIN: IT'S A YELLOW PIECE OF PAPER, YOUR HONOR. IT'S A SKETCH.

THE CLERK: I'M SORRY.

THE COURT: KATHY.

Imagine that the sketch from yesterday has disappeared. Wonder how that happened? Lt. Crumley still testified that the marijuana plants in the Murrell sketch were closer our residence than the one next door. You decide. This is the picture, the government picture, obviously taken from the helicopter.



USA v. Carpenter

Ex. 3, 02/15/00 Suppression Hg