

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

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UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 04-30144
)	
VICTOR P. WILEY,)	
)	December 15, 2006
Defendant.)	

**TRANSCRIPT OF PROCEEDINGS
DEFENDANT'S CLOSING ARGUMENT
BEFORE THE HONORABLE DAVID R. HERNDON
UNITED STATES DISTRICT COURT JUDGE**

APPEARANCES:

For the Plaintiff:	Thomas M. Daly, Esq. Assistant U.S. Attorney 9 Executive Dr., Suite 300 Fairview Heights, IL 62208 (618) 628-3700
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For the Defendant:	John D. Stobbs, II, Esq. Stobbs Law Offices 307 Henry St., Suite 211 Alton, IL 62002 (618) 462-8484
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Proceedings recorded by mechanical stenography;
transcript produced by computer.

1 *THE COURT:* Thank you, Mr. Daly. Mr. Stobbs, on
2 behalf of the defendant, your summation.

3 *MR. STOBBS:* Justice, justice, justice. The
4 Department of Justice decided to seek charges against
5 Victor. The Department of Justice decided not to seek
6 charges against Rob Stephens. The Department of Justice
7 decided not to seek charges against Ted Wright. This is
8 about three guys who are in a trailer -- it's not
9 Victor's -- and they charge the guy who goes over for
10 biscuits and gravy because he's the dumbest and the easiest
11 one to charge. There are three drug dealers in that
12 trailer. One gets a free pass. Rob Stephens, not even
13 charged. He admits he might be charged, hopes he's not
14 going to get charged. Nothing. Teddy Wright, well, we're
15 going to talk about Teddy in a little bit. He's not
16 charged. The only one who's been charged is Victor Wiley.

17 We're here to do justice. That's why we're here is
18 to do justice. But what you've heard is, wait a minute,
19 justice was done once Victor made his statement. We've got
20 his statement, case closed, everyone go home. Let's convict
21 the guy and go home, because that's justice. He made a
22 statement.

23 Doesn't matter. Doesn't matter a bit that the
24 drugs are at Rob's house. Doesn't matter a bit that the
25 drugs are in Rob's room. Doesn't matter a bit that the

1 money's in the drawer -- in Rob's drawer. Doesn't matter a
2 bit that all the drug paraphernalia in Rob's room is Rob's.
3 Doesn't matter because Victor made a statement. Doesn't
4 matter. Victor made a statement. We don't need to
5 investigate the case any further. We don't need to do
6 anything. He made a statement.

7 And you know, when you go back there and start
8 talking about all of the evidence, a piece of the evidence
9 is Victor's statement, and I'm going to get into this in a
10 little bit, but just when the prosecutor is reading the
11 statement and it's broken down like that, just think to
12 yourselves how long that takes. How many minutes does it
13 take to do it like that? I think that Detective Dorsey said
14 it was 20 or 25 minutes that the statement took. So he's
15 sitting down at the table with Victor asking questions
16 taking notes, running across to the detective area, typing
17 them up, coming back and reading them, getting Rathgeb to
18 come in and sign it, after having read the Miranda warnings.
19 And just ask yourselves, 25 minutes? Twenty, 25 minutes for
20 that? They got the statement. What's it matter? What's it
21 matter? They've got the statement.

22 Victor's invited over for biscuits and gravy on the
23 27th. He goes over on the 27th. Teddy Wright shows up on
24 the 28th. Rob Stephens is there, shows up at Rob Stephens'
25 trailer. His name -- Teddy Wright's name was mentioned once

1 in the police report, and when he was -- I'm not saying that
2 the -- I'm not trying to convince you that the drugs are
3 Rob Stephens', I'm not trying to convince you that the drugs
4 are Teddy Wright's. What I'm trying to convince you of is
5 that the government can't prove beyond a reasonable doubt
6 that those drugs are Victor's.

7 Let's talk about Teddy Wright. You heard Stephens
8 say they could see the cops show up. Do you remember that?
9 He said that you could see the cops show up. Who's the only
10 one that leaves the trailer? Teddy Wright. What does he
11 do? When Pulido asks him, *Who are you*, what does he do?
12 Say, *My name is Theodore Wright, Officer?* No. *My name's*
13 *Johnny Carson.* John Carson. And the big investigation they
14 do on John Carson -- well, you know, you're not
15 Johnny Carson. Then he says he's Ted Wright. They find out
16 there's a warrant for him. Could it maybe be that
17 Ted Wright saw the cops come and said, *I'm getting out of*
18 *here?* Probably a smart decision. He hasn't been charged.
19 Nothing about him or from him. Is that plausible? Maybe.

20 But see, what's not plausible is for Victor to be
21 in the bedroom, seeing the cops, and instead of saying, *My*
22 *God, I have all of this crack here, I should go next door to*
23 *the toilet and flush it down the toilet.* No. What Toni
24 says is Victor stressed out seeing the police, picks up the
25 cell phone and says, *Hey, baby, you know, the cops are here,*

1 what do I do? Come on. That makes no sense whatsoever. If
2 it's his dope, he's going to flush it, isn't he? It's not
3 like he has to go all the way to the other end of the
4 trailer. He's going to flush it. He would have had time to
5 go anywhere in the trailer. Pulido said there was a
6 five-minute time period that took place between the time he
7 arrested Ted Wright and the time he went to the trailer.
8 That means something because on the one hand, Victor's this
9 genius making all this money dealing dope, maintaining his
10 business and whatnot, but he's too stupid to flush the dope
11 or try to hide it from plain sight? The judge told you that
12 you got to use your common sense. And Ted Wright, they did
13 nothing, nothing, nothing to determine what he had to do
14 with any of this, because they got the statement. What more
15 do they need? They got the statement.

16 When I talked to you, I guess it was on Monday or
17 Tuesday when we gave opening statement, I told you that this
18 case was about three different things: I said it was about
19 Victor's mental state at the time he made the statement; I
20 told you it was about the thoroughness of the investigation;
21 and I told you it was about the promises made to Victor. I
22 told you -- talking about his mental state, I said every cop
23 is going to come in here and say, *He was cool, calm, and*
24 *collected. I could understand everything he said, he could*
25 *understand everything I said. This statement was a breeze.*

1 And when Dr. Cross testified -- that would fly in the face
2 of everything Dr. Cross told you. That would fly in the
3 face of everything Dr. Cross told you. Dr. Dana, I don't
4 know what he rebutted. He admitted that Victor had
5 Attention-Deficit Disorder. And Dr. Dana, he works in the
6 Bureau of Prisons. What he does is competency evaluations.
7 That's what he did here. What Dr. Cross did was an
8 evaluation of Attention-Deficit Disorder. And I'm going to
9 show you some of the testimony that Dr. Cross testified to,
10 but maybe some of you have family, friends, or loved ones
11 who have ADD, and I'm certain that all -- any of you who do
12 have family, friends, or loved ones who have it, they're
13 probably taking Ritalin or some medication.

14 *MR. DALY:* Your Honor, I object. That's
15 personalization and is not evidence.

16 *THE COURT:* Sustained.

17 *MR. STOBBS:* What Dr. Cross said regarding ADD is
18 pertinent and relevant to this case because one of the
19 instructions that Judge Herndon read to you was that you've
20 received evidence of a statement said to be made by
21 Victor Wiley to law enforcement. You must decide whether
22 Victor Wiley did, in fact, make the statement. If you find
23 that Victor Wiley did make the statement, then you must
24 decide what weight, if any, you feel the statement deserves.
25 In making this decision, you should consider all matters in

1 evidence having to do with the statement, including those
2 concerning Victor Wiley and the circumstances under which
3 the statement was made.

4 Well, the circumstances certainly would be someone
5 who has ADD. I'm going to show you quickly some of the
6 statement that -- some of the testimony that Dr. Cross gave
7 you, and I would like to talk to you about it. At the end
8 I'm going to show you what he said and then we'll talk about
9 it in a second.

10 *Did you review any other records?*

11 *Yes, I did review some other records. There was*
12 *a partial record indicated that Victor Wiley took the*
13 *Wechsler Intelligence Scale for Children. His verbal*
14 *IQ is 93; performance IQ is 105. Full scale was 100.*
15 *Also an interview done with Mr. Wiley where he*
16 *indicated he received special education services*
17 *while he was a student in school.*

18 Dr. Cross went through a detailed evaluation of
19 Victor's history, his symptoms, and made a diagnosis. And
20 when I asked Dr. Cross, *could you tell the ladies and*
21 *gentlemen of the jury what Victor's demeanor was like when*
22 *you met with him -- now, imagine he's meeting with*
23 *Dr. Cross. Imagine what it would have been like when he met*
24 *with two Alton police detectives.*

25 *When I met with him, he would not let me finish*

1 sentences that I would start when I was trying to
2 interview him. As a matter of fact, in order to
3 proceed with the interview and examination we had to
4 stop several times just to let Mr. Wiley talk before
5 we could proceed. So he appeared quite anxious,
6 inattentive at times, more interested in telling me
7 his point of view as opposed to responding to
8 interview questions, even responding to the test
9 items at times.

10 Did he ever interrupt you?

11 He interrupted me a lot.

12 And again, are those -- what are those
13 characteristics indicative of?

14 They gave me the impression that he might be
15 suffering from ADD/HD almost immediately.

16 And I asked him: Could it be considered a mental
17 defect?

18 In my opinion, it's a mental defect.

19 What about a mental impairment?

20 Yes, it's considered to be a mental impairment.

21 Does ADD impact an individual's ability to
22 understand questions that are being asked?

23 Again, it impacts the individual's ability to
24 understand to the degree that the individual is able
25 to hear all of what a person is trying to communicate

1 to them. Individuals with ADD/HD have a tendency to
2 not listen to an entire -- a total communication.
3 They tend to interrupt a person's presentation to ask
4 questions and sometimes just simply make statements.
5 This tends to interfere with the individual's ability
6 to effectively communicate to someone.

7 And then I asked Dr. Cross: Would his ADD affect
8 his ability to understand a question being asked? Dr. Cross
9 says:

10 Yes, I think it would mostly because he would
11 not allow someone to -- mostly because he would not
12 allow someone to ask the question in its entirety, so
13 he would only be responding to a part of the
14 question.

15 Would someone interrogating Victor experience
16 difficulty in obtaining reliable answers due to his
17 ADD?

18 Dr. Cross tells you: I think so.

19 And ADD isn't something that can be faked.
20 Dr. Cross said that. It's not something that you grow out
21 of, and it wasn't medicated. And we're talking about July
22 of 2004 when he's sitting in an interview room with two
23 Alton police detectives. And then when we were talking
24 about -- Dr. Cross said that: What stood out to me was the
25 fact that he had a verbal IQ score of 99 and a performance

1 IQ score of 122. That is a significant difference in those
2 scores. From 99 to 122, it's a 23-point difference. It's a
3 23-point difference. That's significant. What that
4 normally says to someone like me is that this person has a
5 learning disability. That's the first red flag regarding a
6 learning disability.

7 Okay. Then he goes on to say: When I looked at
8 the subtest scores -- he talks about how that affects
9 Victor, and he says, There's something significantly wrong
10 here because those scores should not be as low as they were.
11 And they fell very low into the mentally retarded range.
12 Okay. So now I'm saying about that, he has a learning
13 disability, and it seems to be a verbal learning disability
14 and it seems to be related to his ability to retain
15 information over a long term period. For me that means he
16 has an attention problem here because he's not processing
17 information properly from short-term memory through working
18 memory into long-term memory.

19 That's exactly, exactly what happened in this
20 interview. He's impetuous, jumping into it, and that alone
21 should just diminish the circumstances under which the
22 statement was given. That's a jury instruction
23 Judge Herndon read to you. You'll be able to take it back.
24 That means something. And when the prosecutor was asking
25 him whether or not Victor could have graduated from college,

1 Dr. Cross said, yeah, he could have. With medication, he
2 could have done all of those things, yes.

3 And I asked Dr. Cross, *If you could think back to*
4 *the first 20 or 25 minutes that you met Victor, I asked him*
5 *to tell the ladies and gentlemen of the jury what that was*
6 *like. And he says, Well, I was trying to ask Victor*
7 *specific questions, and before I could get the questions out*
8 *he would interrupt me, talk about things that initially may*
9 *be related to the question I'm trying to ask, but then talk*
10 *about a lot of things that are unrelated, so the*
11 *associations were relatively loose. At times it got to the*
12 *point where I had to sit and listen to him for an extended*
13 *period of time before he would calm down enough or settle*
14 *down enough to listen attentively to the questions I was*
15 *asking him.*

16 And this is the last that I'm going to read you.
17 What's important about that is, the first 20 or 25 minutes
18 when Dr. Cross talked to him, that's how long Dorsey said he
19 spoke to Victor. When I talked to Dr. Cross again, I said:
20 *You indicated if the individual's properly medicated, the*
21 *ADD can be controlled, is that right? And Dr. Cross says:*
22 *Yes. For most individuals, use of medication to control*
23 *ADD/HD works fairly well.*

24 *In some people, for lack of a better way to say*
25 *it, stop the medication of illegal drugs, right?*

1 *Some people will do that?*

2 *Yes.*

3 *There's a possibility to become addicted?*

4 *Yes.*

5 Then I asked him if he knows what Librium is used
6 for. He says, *Librium is a tranquilizer. Sometimes it's*
7 *used to help drug-addicted individuals detox.*

8 So the issue of ADD is not something that's -- it's
9 something that's real. It's not something being invented or
10 whatnot. It's something that's real and something that
11 Victor has and it's something that impacts the statement
12 that Victor made. And when -- the officers also told you
13 that Victor wasn't under the influence of any drugs. Do you
14 remember that? *No. He seemed fine. No problem whatsoever.*
15 *And you would have talked to him if he was under the*
16 *influence of drugs.*

17 There's an Exhibit No. 7, and this is from the
18 Madison County Sheriff's Department, and on August 4th,
19 2004, Victor was given Librium. Dr. Cross said that Librium
20 is given to drug addicts to detox. Look at Exhibit 7 when
21 you're talking about whether or not the police officers, in
22 fact, were able to talk to Victor without any problem
23 whatsoever. He was given Librium for a reason.

24 And it's something that -- he also tells that he
25 had used pot and cocaine; and nausea, substance abuse

1 history. Again, this is something that has to impact the
2 statement that he made. That has to impact the statement
3 that he made because you can't just come into court and say
4 he made a statement without knowing the circumstances under
5 which the statement was made. If you take away the
6 statement, goes back to you have three guys in a trailer.
7 You have one guy not getting charged, one guy not even being
8 investigated, and you have Victor being charged. You take
9 away the statement, that's what you have. You have Victor
10 sitting here getting charged, you have Rob Stephens who's
11 not going to be charged, and Ted Wright wasn't even
12 questioned.

13 I'm going to talk about Rob Stephens in a little
14 bit at great length. But there comes a point in time in a
15 young man's life where he's got to work. All of us have a
16 desire probably not to go to work. Instead of sitting
17 around your mom's house smoking dope, smoking crack and
18 thinking up these crisis reasons where some -- wasn't even
19 diagnosed, this problem that he has. But we're supposed to
20 feel sorry for rob Rob because it's just tragic that poor
21 Rob has become addicted to crack. Poor Rob.

22 That's exactly the amount of time that Victor --
23 the time I started until now is the exact amount of time it
24 took Victor to make his statement. Doesn't seem like that
25 long, does it? But poor Rob. How long do you think Rob's

1 going to get away with tricking the system? April was the
2 last time.

3 You have three statements. Two of the statements
4 were taken by Dorsey and Rathgeb. What's important about
5 that is that they're drug agents. The third statement from
6 Kay Lee, that's into evidence. That's Defendant's Exhibit I
7 think 8 or 9. That's into evidence, Kay Lee's statement.
8 What's the difference about that? I'm talking about the
9 thoroughness of the investigation. Well, the two drug
10 agents, they talked -- one talked to Rob and one talked to
11 Victor. And those statements are where they say, I'm
12 sitting across the table and we get this information from
13 these guys and we write it up, come back and we read it.
14 Fine? Yes. Sign it.

15 Kay Lee, at the scene of the crime, signed a
16 statement, or they wrote it out for her and she signed it.
17 That's another way to take a statement, remember? Remember
18 David Hayes and Dorsey talked about the three different ways
19 you can take a statement: You got the videotape, you have
20 an audiotape, you have a handwritten statement, and then you
21 have a statement where there's an interpretation. It's not
22 videotaped; it's just the interpretation of the individual
23 writing it down. He was calm, cool, and collected. High?
24 No. *Seemed fine to me. I've been a police officer for 15*
25 *years and I know someone when they're doing drugs or*

1 something. No, Victor wasn't doing drugs at all. He was
2 fine. Could you imagine the videotape? Could you imagine
3 what it would look like on a videotape if we were able to
4 see it? You can see on the videotape that he was fine. Oh,
5 no. You can see on the videotape that it took 25 minutes.
6 Oh, no. You can see on the videotape that he said this, you
7 know, and immediately destroying his notes so the only
8 question that can be asked is the interpretation of that
9 statement. The detective who took Kay Lee's statement,
10 Detective Brantley, he's a general detective, and it was a
11 verbatim written statement. That's a big difference. It's
12 a verbatim written statement. Let me go type it up and come
13 back and read it back to you.

14 The Alton Police Department is a state-of-the-art
15 facility. The City of Alton has a brand new police station,
16 it has a brand new jail, and David Hayes said that when
17 they -- two of the interview rooms, they have videotapes,
18 video cameras. In this case some of the witnesses were
19 videotaped. Toni Perkins was videotaped. Toni Perkins was
20 videotaped. And her interview with Detective Rathgeb --

21 MR. DALY: When?

22 MR. STOBBS: Judge, could I give my closing
23 argument, please?

24 THE COURT: Sure.

25 MR. STOBBS: Toni Perkins was videotaped by

1 Detective Rathgeb in this case. Detective Hayes, Detective
2 Dorsey, they both said that videotaped interviews were
3 conducted in this case. You've taken notes. Look through
4 the notes. Look through your notes. They didn't take it
5 here because then you just have -- you have to take what
6 they're saying because they have Victor's statement. And
7 now Detective Hayes said everyone in a felony case is
8 videotaped. They spend all the money to build this
9 facility, put video cameras in the rooms, and in this
10 massive drug transaction, whatever, they don't bother to
11 videotape it because they've got the statement.

12 And this is something -- Defendant's Exhibit 1 is
13 the dispatch report that's into evidence. It's not
14 100 percent accurate in terms of the time. We've all gotten
15 into that. But it's not supposed to be off by a great deal
16 of time. You heard every officer talk about that. When
17 they come to court they're able to say, well, no, at
18 16:22:03 Detective Brantley was there. Exactly 16:22? No,
19 but about that, approximately. Mark Dorsey arrives at
20 17:17:52. And that's what -- if you remember where Pulido
21 says that Dorsey relieves him, looking at the blue tub. He
22 leaves the scene at 18:43:20. And if you remember,
23 David Hayes said that Victor was taken away in Joniece
24 Young's vehicle at 17:47:09. That's what the record
25 reflects. Keep those numbers in mind.

1 Victor's statement was taken at 18:04. Mark Dorsey
2 wrote on here 18:04. And Mark Dorsey also, when he read the
3 Miranda warnings, 18:04. He left the scene at 18:43. Let's
4 say he left the scene at 18:23. It's still after this
5 statement is made. Rob Stephens' statement started at 18:00
6 hours and concluded at 19:00 hours. Look at his statement.
7 And what's important about that is the statement says it
8 took an hour. Why is it on Victor's it says on both pieces
9 of paper 18:04? That's significant. That's something you
10 should take into consideration when determining whether
11 Victor's guilty beyond a reasonable doubt.

12 Rob Stephens said that both those guys were coming
13 in and out, Dorsey and Rathgeb were coming in and out. Do
14 you remember that? Do you remember Detective Rathgeb saying
15 that, no, he was just meeting with Rob Stephens alone. Then
16 Dorsey, when they were finished, they came over and read it.
17 Dorsey said that, no, I was meeting with Victor. When I
18 finished, you know, Rathgeb came over and signed it.
19 Stephens said it took three or four hours to give his
20 statement. On the statement it only says it took an hour.
21 Which is it? It's significant because the person sitting
22 here is Victor Wiley, not Rob Stephens, not Ted Wright.
23 What could have happened is they took Rob's statement first
24 and then took Victor's statement, or perhaps they had Victor
25 in one interview room and Stephens in the other interview

1 room and they were switching back and forth. But there's
2 something that's not right about that, and that is something
3 that you should take into consideration, whether or not
4 Victor should be found guilty beyond a reasonable doubt.

5 You know, when you look at the statement -- please,
6 please look at Victor's statement and ask yourselves just
7 common sensical questions: If I'm a drug agent and I get
8 this massive amount of cocaine, one of the first things I'm
9 going to ask the guy is, *Hey, where did you get it from?* He
10 was being cooperative, helpful. *Where did you get it from?*
11 They could have said, *Hey, Victor who did you deal it to?*
12 They could have asked all of these questions. They could
13 have had a four- or five-page report. They would have just
14 been able to bury him with all of these names and whatnot.
15 They didn't ask that.

16 Part of investigating a case in a big case like
17 this is to get name, rank, and serial number. He said he
18 was cooperative. He said he was trying to be helpful. And
19 on there I want to help myself the best way I can. *Hey, a*
20 *good way to start would be, Who do you get your dope from?*
21 *We don't know. We didn't ask him that.* It was so quick.
22 He wasn't going anywhere. Of course, they let Rob go. And
23 you know, they have Teddy Wright there. And again you have
24 a big drug seizure. They don't even investigate
25 Teddy Wright. Up until now, when Victor's made it clear

1 that he doesn't feel his statement was given intelligently
2 or whatnot, they still don't go out and talk to Teddy
3 Wright. We got the statement. How many times can you hear
4 that? Once we got the statement, it's all over. Do you
5 believe that?

6 You guys had, Tuesday or Wednesday, like one of
7 those trial moments, TV where Toni Perkins -- Toni told us
8 that Victor called his sister to go pick up the drugs and
9 money from 429 Alice and take them over to Rob's house.
10 That is like a trial moment. She waited two-and-a-half
11 years to just let that little thing out. Two-and-a-half
12 years. Boy, isn't that convenient? Follow the money.
13 Because they couldn't figure out how the drugs would have
14 gotten from 429 Alice to 411 Tara because that's kind of a
15 misconnect. We got it. Toni waits two-and-a-half years to
16 come to the conclusion -- because she never said that those
17 drugs were Victor's or that money was Victor's, but now she
18 can say it because Classy goes from I guess school or
19 wherever to take -- to get the money and drugs and take it
20 over to Victor, and then Victor says, *Well, hey, Kay, I*
21 *don't trust Rob here. Could you hide the money for me?*

22 *Yeah, Victor. I'll hide it under my pillow.*

23 *That's a good place to hide eight grand.*

24 *Hey Rob, I'm going to need that money back.*

25 *Hey, Mom, where's Victor's money?*

1 *Here. I'll go put it in my drawer with my other*
2 *drug paraphernalia.*

3 We got Toni. That was just a -- wow. Toni, she
4 and Classy -- Classy's the one that did it, so Classy's a
5 criminal too. You know, that someone, Classy -- you got to
6 see both people. Classy's someone, she's trying to make
7 something out of herself. She's trying to make something
8 out of herself, and life is not easy for some people, but it
9 certainly doesn't become any easier when someone comes into
10 court and under oath says that you've basically gone to
11 someone else's house and taken drugs and money. But her
12 crime is she had that 1991 Chevy Caprice. Maybe it's her
13 first car. Is it a crime to keep a car for that long? Is
14 it a crime to have insurance for the car? Imagine if she
15 hadn't had insurance. You don't have insurance on that
16 vehicle? What are you going to do with it? Come on. I
17 suspect the insurance probably isn't top-of-the-line, but
18 you saw her. You saw her. She went to the Navy, tried to
19 better herself. She got pregnant. She and her husband came
20 back here. She's gone to school, she's worked. They can't
21 just leave -- they have to drag her down. They have to drag
22 her down. And she's trying to get out but they drag her
23 down because then we can get Victor. See, that's what you
24 got to do, you got to drag him down. And Toni, she's so --
25 she was so scared of Victor. She was so scared that she saw

1 him the 26th, 27th, 28th. She slept with him the 27th.

2 True fear. True fear.

3 You know, it's -- but Victor was saving the money.

4 I guess he's like the all-star of the St. Louis Special

5 School District that he's able to save money and whatnot.

6 And that's just someone that tries to do something with

7 their life. And you compare Classy to Rob Stephens because

8 we're supposed to feel sorry that Rob can't get a job or

9 keep a job, but Classy -- bad people, boy, she's bad people.

10 She doesn't -- she has two cars.

11 People in life try to do better, they try to better

12 themselves, and Classy tried to better herself and is trying

13 to better herself, and for Toni to come in here after

14 two-and-a-half years to do that is just unpardonable. When

15 we get back to -- then the other big witness is Rob.

16 Judge Herndon is going to tell you and has told you,

17 Victor Wiley's presence at the scene of a crime and

18 knowledge of the crime as being committed is not alone

19 sufficient to establish his guilt. Victor's association

20 with persons involved in a criminal enterprise is not itself

21 sufficient to prove his participation or membership in a

22 criminal enterprise. That's exactly what we have here.

23 Three guys in a trailer, and he's charged. No fingerprints

24 were taken, no follow-up investigation was done. Could you

25 imagine if his fingerprints were on the baggies or whatnot?

1 But Rob comes in here, and there's no nice way to say this:
2 He's just a liar and he showed it. We're supposed to
3 believe that Rob is someone that's trying to get his life
4 back together just like when he went to Syntac, whatever out
5 in Colorado. Now he's been going to Gateway, this crisis I
6 think it was described as. Crisis. You know, his
7 demeanor -- it was comical in the beginning, but do you
8 remember when I asked him, *Hey, Rob where are you getting*
9 *your drugs from now?*

10 *Why do you need to know that?*

11 *I don't want to know. The jury wants to know.*

12 *How is that relevant?*

13 *I get to ask the questions; you get to answer*
14 *them.*

15 You know, he didn't want to answer. Judge Herndon
16 told you that you get to look at a person's demeanor when he
17 testifies. You know, if you're coming into a court of law
18 to testify, you're certainly not going to be using the
19 language he used. You're certainly not going to be all over
20 the table like that. And you're not going to behave in the
21 manner he behaved in. See, what's he care? He's not going
22 to get charged. Victor is. What's he care? He can behave
23 however he wants.

24 Then when his latest conviction, the attempted
25 residential burglary, I guess crisis management Rob was

1 going over to this guy's house in April to wake him up to go
2 to work. Now, I would tell you that if I'm going to wake
3 someone up to go to work, I probably wouldn't shatter their
4 window. I'd call them on the phone or knock on the door.
5 When Rob got trapped, element of residential burglary,
6 breaking in to commit a felony or theft. Well, now that you
7 put it like that. It's just, you know -- and he ran a crack
8 house out in Colorado. That's what this was. But again, we
9 got the biscuit and gravy guy, that's what we got. He made
10 that statement. Boy, we got that statement. When he was
11 asked about, oh, I get it from A, B, C and D. Do you think
12 those numbers he gave us were true? Those are the first
13 seven numbers off the top of his head. He's probably high
14 right now. And I'll tell you something, I think
15 Rob Stephens would prefer two days of hell from me on
16 cross-examination than 20 years in the federal penitentiary
17 where he's got to serve 85 percent of it. I think that's
18 just a small thing that Rob's got to put up with. And he
19 told you when they came out there he knew -- I think he said
20 he was two time looser or three time loser, whichever it
21 was, but he knew what sentence he would get if it were a
22 federal crime. But hey, we got the biscuits and gravy guy,
23 that's what we got. We got that statement from Victor.
24 It's just not right. But when asked about, *Hey, who do you*
25 *get drugs from*, the one he really knew -- do you remember

1 when he was starting to draw blanks? *I did get it from*
2 *Victor. I did get it from Victor. Like, No, Rob. We're*
3 *not talking about Victor. Let's talk about some other*
4 *folks. Then how many times -- because he was going to get*
5 *pinned down on the days and whatnot as to the times. 150*
6 *times, that might be an exaggeration. Wait. I thought that*
7 *these reports that Dorsey and Rathgeb did were just fine.*
8 *But Rob says, no, there's exaggerations in them. And again,*
9 *it's not something where it's beyond a reasonable doubt that*
10 *you have to determine that Victor's guilty of these drugs.*
11 *We're not here for distribution of drugs; we're here for*
12 *distribution of these drugs.*

13 What did Hayes tell you? If an addict has to
14 choose between \$8,000 and drugs, he's going to run past the
15 \$8,000 to get drugs. Rob was addicted to crack. These
16 drugs were in plain view. Again, you have to use common
17 sense. These drugs were in plain view. All the officers
18 said they were in plain view. Rob said, *Oh, wait a minute.*
19 *No. Victor wouldn't let me back in the room. It's his*
20 *house. It's his bedroom. It's his drawer stuffed full of*
21 *drug paraphernalia. But Victor wouldn't let me back there.*
22 *Come on. Those drugs were in plain view. He would have*
23 *gone back there and smoked them in a New York second.*

24 This is the drug paraphernalia found in Rob's
25 drawers. And we had this big testimony from Mike Dooley and

1 some of the other officers about all of this drug
2 paraphernalia. Who took responsibility for it? Rob. And
3 you know, while the kiddos were there, which it's just --
4 this was his drug paraphernalia. It was in his dressers, it
5 was in his room. But biscuits and gravy guy over there.
6 And you got that statement. Review the statements that Rob
7 made, his mom made, and Victor made. And when Rob starts
8 getting pinned down, *Was it two days? Well, it depends on*
9 *how you determine two days.* That's like, how you know what
10 the definition of the word "is" is? The dope was in three
11 different places. Rob would have gone to get it in any one
12 of those places. Again, maybe Teddy showed up and it was
13 his dope, he put the dope there, he put the money there, and
14 then he left. But again, this is something where you're
15 here to determine whether or not Victor Wiley is guilty
16 beyond a reasonable doubt for possessing with intent to
17 distribute these drugs. That's what you're here for. You
18 have a trailer with three different people. He's charged,
19 one guy's not going to be charged, and the other guy's not
20 even been investigated.

21 And in his statement he says he knew Victor had
22 drugs and money when he showed up. Showed up. Well, I
23 thought Classy brought it over. Which is it? Rob says,
24 *Classy? I don't know her.* Classy says, *I don't know Rob.*
25 That's true. Rob said he never saw her, never saw Classy

1 over there at his house. But see, she just gets dragged
2 down because it's convenient. It's convenient to take a
3 statement from someone without videotaping it. It's
4 convenient not to do any other investigation. It's
5 convenient not to charge someone who lives in a house where
6 crack is being distributed. It's convenient not to charge
7 someone who's living in a house where little children are
8 and there's drugs. It's convenient. Because you got a
9 statement, you got the biscuits and gravy guy, and just
10 leave the other guys alone.

11 Again, I mean you have to use your common sense.
12 If this amount of drugs were Victor's, he would have flushed
13 it. That's common sense. That's just common sense. The
14 police are here. If he knew that he was wanted by the
15 police, he would have flushed them. You just can't get
16 around the fact that three people were there and one person
17 was charged. The best deal was Rob's because -- well, I
18 guess the best deal was Teddy because he's not even
19 investigated. His mom says that Rob's pawning, he's come to
20 pawning stuff, and now he's devolved into breaking into
21 people's houses. Society really does have an obligation in
22 cases. He was thankful. Rob was thankful that Victor made
23 a statement because it took the heat off of him, took the
24 dope off of him, and the one sitting here today, the one
25 sitting here yesterday, the one sitting here Wednesday, the

1 one sitting here Tuesday, Monday, was Victor, not him. He's
2 awfully thankful for that. It's Rob's house. It was his
3 bedroom, all this paraphernalia in his -- with his personal
4 possessions.

5 The determination is something you all get to make
6 when you go back and deliberate. It then becomes your
7 decision as to whether or not biscuits and gravy guy's
8 guilty beyond a reasonable doubt for possessing with intent
9 to distribute these drugs. You got to look at all of the
10 evidence. You have to look at the way in which the evidence
11 was obtained against Victor. You have to look at the
12 circumstances under which the statement was made. You have
13 to look at the personal characteristics of Victor. This
14 isn't something where we've got the statement, he was there,
15 we're done, because once you start peeling it away you're
16 going to see that there's much more to this than just some
17 guy at a house who makes a statement.

18 Victor Wiley's presumed innocent. He's presumed
19 innocent until the 12 of you unanimously find him guilty
20 beyond a reasonable doubt. This was a crack house, a place
21 where drugs were bought and sold, and the trailer was taken
22 away by the Storyland development or whatever because it was
23 a crack house. The mistakes of Victor's statement says he
24 had 12 years of school in East St. Louis. Dr. Cross was
25 asked, *Isn't it a fact that he got his GED?* They didn't get

1 into anything where he got the money from, how much drugs he
2 sold to obtain this much money. I think that if you look at
3 his statement, you look at the inconsistencies in the
4 statement compared to the other statement, then more
5 importantly look at the way in which it was taken, it wasn't
6 videotaped, it wasn't audiotaped, it wasn't handwritten, and
7 you then take into consideration what Dr. Cross testified
8 to.

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REPORTER'S CERTIFICATE

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I, Laura A. Blatz, RPR, Official Court Reporter for the U.S. District Court, Southern District of Illinois, do hereby certify that I reported in shorthand the proceedings contained in the foregoing 28 pages, and that the same is a full, true, correct, and complete transcript from the record of proceedings in the above-entitled matter.

Dated this 8th day of March, 2007.

Laura A. Blatz
LAURA A. BLATZ, RPR