

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

*

CRIMINAL NO: 09-373

v.

*

SECTION: "K"

**HERMAN MCMILLAN
aka "Cat Eyes"**

*

* * *

FACTUAL BASIS

Should this matter proceed to trial, the United States would prove beyond a reasonable doubt, through credible testimony and reliable evidence, the following facts:

COUNT 1:

On February 11, 2009, NOPD conducted a controlled purchase of drugs from 2442 Pauger Street and then obtained a search warrant. In an attempt to gather additional intelligence prior to the execution of the warrant, NOPD officers conducted surveillance during which officers observed numerous sales made from the residence. When the warrant was executed, officers noticed that Clarissa Morgan was sitting on the sofa in the front room. She was called to the front door by officers. She allowed them to enter the house without drawing attention to their presence. Upon entering the kitchen area, they found Jock Walker, Herman McMillan and Kewayne Morgan sitting at the table bagging up drugs. On the table was a large bag of marijuana (approximately 212 grams), sandwich bags, a digital scale, and some smaller bags of marijuana. A narcotics dog was summoned

to search. Officers also recovered a bag of crack cocaine (approximately 29 grams), which was found in the sandwich bag box that was on the table with the marijuana and other drug packaging paraphernalia.

Officers arrested all four subjects. When they were transported back to the NOPD district station, they were able to see the board used to brief the officers prior to the execution of the warrant. On the board was information about the drug dealing going on at the house and the targets. When the arrested subjects saw this information, they commented to police about how accurate the information was. Kewayne Morgan also told police that they would have to subtract 28 grams from the overall amount of drugs because that is how much a 1 gallon plastic bag weighed.

It should be noted that during the execution of the warrant, the officers located a couple of thousand dollars in cash from different locations around the residence. Some of this money was claimed by Clarissa Morgan (money found in her bed) and some by McMillan and Morgan (money wrapped in rubber bands). All were arrested but all made bond and were released from jail except Jock Walker.

All of the marijuana and crack cocaine that were recovered from the residence were tested by NOPD Crime Lab. All tested positive marijuana and cocaine base.

COUNT 2:

On Sunday March 2, 2009, at approximately 11:30p.m. NOPD officers observed Herman McMillan driving a car and make an illegal U-turn at the intersection of Baudin and South Pierce Streets. Based on their observations that elected to conduct a traffic stop on the vehicle. They activated their lights and got out of their vehicle and ordered the McMillan to stop. One police officer was standing in front of the McMillan's car and the other police officer was standing next to

the driver's side door. McMillan put the car in reverse and attempted to back away from the officers. Both officers drew their weapons. The officers then observed McMillan reach for a firearm inside his vehicle and point the gun at the officer standing in the front of his car. Both officers ordered McMillan to drop his weapon, but he refused. The officer standing in the front of the vehicle, fearing for his life, fired his weapon through the front windshield of McMillan's car and hit McMillan in right side of his torso. McMillan then fell out of the car as it continued to role backwards. The officers approached McMillan as he lay in the street and placed him under arrest. They then retrieved a fully loaded Glock 27, .40 caliber semi-automatic handgun, serial number EHN099), which had an extended hi-capacity magazine, from the front seat of McMillan's vehicle. Officers also located a large amount of cash in McMillan's rear pant's pocket. McMillan was brought to the hospital, where he was treated for his injuries. He was released from the hospital on April 14, 2009 and booked at Central Lock-up on state charges. Shortly thereafter he made bond and was released from custody.

According to Special Agents of the Bureau of Alcohol, Tobacco, and Firearms (ATF) the Glock 27, .40 caliber semi-automatic handgun, serial number EHN099, which was recovered from McMillan's vehicle was not manufactured in the state of Louisiana, therefore for it to be possessed in the City of New Orleans it had to have traveled in and affected interstate commerce.

Furthermore, a review of Herman McMillan's criminal history showed that he had pled guilty on June 18, 2003, in the Criminal District Court for the Parish of Orleans, under case # 439-378 "G" to possession of crack cocaine, which was a felony drug offense.

COUNT 1(continued):

On May 13, 2009, NOPD received information that two black males were selling drugs from 2316 Washington Avenue, Apt 205. The Officers conducted surveillance and watched numerous deals take place from that location. They eventually arrested two of the purchasers and recovered narcotics from both of them. Based on this information, officers obtained a search warrant for the residence. Pending execution of the warrant, the officers conducted additional surveillance and realized that Kewayne Morgan was retreating to the rear of the apartment complex, possibly to retrieve the drugs. Officers found a location in the rear of the complex that would provide them with the opportunity to see what Morgan was doing. They were able to watch him retrieve the drugs from an area secreted around a hot water heater in a shed behind the apartment building.

While police executed the search warrant at the apartment they detained Kewayne Morgan, Darrell Pitts, Earl Johnson, and Pinkie Bonds who they had observed coming in and out of the apartment and hanging outside the apartment during the drug sales. Inside the apartment they found a bag of crack cocaine (3.04g), a digital scale, razor blades, and sandwich bags on a table next to Darrell Pitts. Pitts told police that the apartment was his and that Kewayne Morgan sometimes stayed with him. Police then went to the area of the water heater in the rear of the apartment complex and recovered a bag containing five large pieces of crack cocaine (36.53g), a bag of powder cocaine (65.17g), and one Hi-Point 9mm pistol (Serial Number P1301513).

Once at the Orleans Parish Prison, Kewayne Morgan called his own cell phone from the prison phone system, which records all calls. Herman McMillan answered the phone and spoke to Morgan. During this call, McMillan stated that he was on his way to the apartment when he saw the police. Morgan asked him if the police found “everything”. During several other calls, Morgan

actually goes to the stash location by the hot water heaters at the apartment complex and checks the stash location. He tells Morgan that the police got all of the drugs and the firearm that they had back there. However, he says that they did not check the gutter, which was one of the other stash locations where they stored their drugs.

The government and the defendant, Herman McMillan, agree and stipulate that the amount of drugs that the government could prove that the defendant distributed during the course of the conspiracy was more than 50 but less than 150 grams of cocaine base, less than one kilogram of marijuana, and a negligible amount of heroin and powder cocaine.

By pleading guilty the defendant freely admits that he was involved in a conspiracy to distribute and possess with the intent to distribute crack cocaine, marijuana, and heroin with Kewayne Morgan, Jock Walker, Clarissa Morgan, and others.

Maurice E. Landrieu, Jr. (Date)
Assistant United States Attorney

Paul Fleming (Date)
Counsel for Defendant

Herman McMillan (Date)
Defendant

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

*

CRIMINAL NO: 09-373

v.

*

SECTION: "K"

CLARISSA MORGAN

*

* * *

FACTUAL BASIS

Should this matter proceed to trial, the United States would prove beyond a reasonable doubt, through credible testimony and reliable evidence, the following facts:

On February 11, 2009, NOPD conducted a controlled purchase of drugs from 2442 Pauger Street and then obtained a search warrant. In an attempt to gather additional intelligence prior to the execution of the warrant, NOPD officers conducted surveillance during which officers observed numerous sales made from the residence. When the warrant was executed, officers noticed that Clarissa Morgan was sitting on the sofa in the front room. She was called to the front door by officers. She allowed them to enter the house without drawing attention to their presence. Upon entering the kitchen area, they found Jock Walker, Herman McMillan and Kewayne Morgan sitting at the table bagging up drugs. On the table was a large bag of marijuana (approximately 212 grams), sandwich bags, a digital scale, and some smaller bags of marijuana. A narcotics dog was summoned to search. Officers also recovered a bag of crack cocaine (approximately 29 grams), which was found

in the sandwich bag box that was on the table with the marijuana and other drug packaging paraphernalia.

Officers arrested all four subjects. When they were transported back to the NOPD district station, they were able to see the board used to brief the officers prior to the execution of the warrant. On the board was information about the drug dealing going on at the house and the targets. When the arrested subjects saw this information, they commented to police about how accurate the information was. Kewayne Morgan also told police that they would have to subtract 28 grams from the overall amount of drugs because that is how much a 1 gallon plastic bag weighed.

It should be noted that during the execution of the warrant, the officers located a couple of thousand dollars in cash from different locations around the residence. Some of this money was claimed by Clarissa Morgan (money found in her bed) and some by McMillan and Morgan (money wrapped in rubber bands).

All of the marijuana and crack cocaine that were recovered from the residence were tested by NOPD Crime Lab. All tested positive marijuana and cocaine base.

By pleading guilty to this charge, Clarissa Morgan admits that she was aware that Kewayne Morgan, Herman McMillan, and Jock walker were participating in a conspiracy to distribute cocaine base and marijuana. She also admits that she concealed this crime from law enforcement by allowing them to use her residence to store and package their drugs. Furthermore, Clarissa Morgan admits that she did not report this felony offense to any person in civil or military authority of the United States.

At trial the government would produce the crack cocaine, marijuana, and United States currency that was recovered from Clarissa Morgan's residence, which was located at 2442 Pauger Street, New Orleans, Louisiana. The government would also produce the testimony of several New Orleans Police Officers and Federal Agents who investigated this case, as well as the testimony of several cooperating co-conspirators.

Maurice E. Landrieu, Jr. (Date)
Assistant United States Attorney

Roma Kent (Date)
Counsel for Defendant

Clarissa Morgan (Date)
Defendant