

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

UNITED STATES OF AMERICA

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CRIMINAL DOCKET NO. 09-398

v.

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SECTION: "F"

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COREY OLIVER

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FACTUAL BASIS

The above-named defendant, **COREY OLIVER** has agreed to plead guilty as charged to Count 2 of the 24-count Superseding Indictment in this case. Should this matter have proceeded to trial, the United States of America would have proven beyond a reasonable doubt, through the introduction of relevant, competent, and admissible testimonial, physical and demonstrative evidence, the following facts to support the allegations against the defendant, **COREY OLIVER** ("**OLIVER**"):

COUNTS 1 & 2 - EVIDENCE OF RICO AND DRUG CONSPIRACIES

Beginning on a date unknown, but prior to January 2003, and continuing up to on or about August 6, 2010, in the Eastern District of Louisiana and elsewhere, the defendant **COREY OLIVER** was a member of an enterprise which operated principally in the New Orleans Metropolitan area. The principal locations where members and associates of the enterprise operated included, but were not limited to, two areas located in Orleans Parish that is commonly referred to as "Central City." Area one encompassed Washington Avenue to the East, Danneel Street to the North, Sixth Street to the West and Baronne Street to the South. The boundaries of area two included Josephine Street to the East, Claiborne Avenue to the North, Jackson Avenue to the West and Baronne Street to the South.

The criminal organization, including its leadership, membership, and associates, constituted an “enterprise,” as defined by Title 18, United States Code, Section 1961(4) (“the enterprise” and the “Josephine Dog Pound”), that is, a group of individuals associated in fact. The Josephine Dog Pound constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise. This enterprise was engaged in, and its activities affected, interstate and foreign commerce.

A principal objective of the Josephine Dog Pound was to obtain as much money and things of value as possible through the trafficking of controlled substances, including cocaine base (“crack cocaine), cocaine hydrochloride (“cocaine powder”), heroin and marijuana. It was further an objective of the enterprise to commit acts of violence, for the following purposes, among others: to enrich the enterprise and its members; to create, maintain, and control a marketplace for the distribution of its controlled substances; to enforce discipline among members of the enterprise; to protect the enterprise and its members from detection, apprehension, and prosecution by law enforcement; to prevent, thwart, and retaliate against acts of violence perpetrated by rivals against the enterprise and its members; to keep victims, potential victims and witnesses in fear of the enterprise; and to promote and enhance the reputation and standing of the enterprise and its members. **OLIVER** was present during such acts of violence, one of which was the September 4, 2006, murder of Herbert Lane, which is described later in this document.

The government’s evidence regarding the existence and nature of the Josephine Dog Pound would come from a variety of sources, including but not limited to the testimony of witnesses and cooperating individuals, police searches and seizures, historical arrests of

members of the enterprise, and recorded telephone conversations between and among enterprise participants. Collectively, this evidence would show that the Josephine Dog Pound began before 2003, and the members of the enterprise included, among others, **COREY OLIVER**, Michael Anderson, a/k/a “Mike-Mike,” Harold Jones, a/k/a “Dooley,” a/k/a “Doody,” Theron Jones, a/k/a “T.J.,” Jeremiah Millro, a/k/a “Jerry,” Darryl Shields, a/k/a “Snook,” a/k/a “Black,” Jerome Simmons, a/k/a “Buddy,” and Tony Simmons, a/k/a “Yay-Yo.” Michael Anderson, a/k/a “Mike-Mike,” a leading member, was a distributor of controlled substances and gunman for the enterprise. Harold Jones, a/k/a “Dooley,” a/k/a “Doody,” acted as a leader and principal supplier for the enterprise, and as a distributor of controlled substances and gunman for the enterprise. **COREY OLIVER**, Jeremiah Millro, a/k/a “Jerry,” Theron Jones, a/k/a “T.J.,” Darryl Shields, a/k/a “Snook,” a/k/a “Black,” Jerome Simmons, a/k/a “Buddy,” and Tony Simmons, a/k/a “Yay-Yo,” acted as distributors of controlled substances and as gunmen for the enterprise.

Beginning sometime in at least 2003, **OLIVER** and his co-conspirators enlisted friends, family members, and individuals known to them from the neighborhood and elsewhere to assist them in distributing controlled substances, including heroin, cocaine, cocaine base, and marijuana, in the Central City area of New Orleans. These individuals include Michael Anderson, “Mike-Mike,” Harold Jones, a/k/a “Dooley,” a/k/a “Doody,” Jeremiah Millro, a/k/a “Jerry,” Theron Jones, a/k/a “T.J.,” Darryl Shields, a/k/a “Snook,” a/k/a “Black,” Jerome Simmons, a/k/a “Buddy,” and Tony Simmons, a/k/a “Yay-Yo,” and others. Harold Jones and others obtained quantities of heroin, cocaine, cocaine base, and marijuana from sources of supply, which they supplied to other members of the organization to distribute. **OLIVER** and members of the enterprise distributed crack cocaine on a regular basis from the street corners on

Josephine Street and Dryades Street/Washington Avenue in an “open air drug market.”

OLIVER and other members of the enterprise used a number of different safe locations, stash houses and alleyways, located in the Central City neighborhood, within the Eastern District of Louisiana, and elsewhere, to process, package and store the enterprise’s controlled substances before distribution, and to store firearms possessed and maintained by members of the enterprise.

OLIVER and other enterprise members sold drugs to various purchasers/users who were regular customers who lived in the Central City neighborhood. The enterprise members additionally sold drugs to other customers who came to the Central City area specifically to purchase drugs. **OLIVER** and the enterprise members sold drugs, especially crack cocaine, to numerous purchasers/users on a regular basis since sometime before 2003. When a purchaser/user entered the Josephine Street area or the Washington/Dryades Street area, he would be directed to any one of the enterprise members, including **OLIVER**, who happened to be selling that day. Once the purchaser/user bought the drugs and gave money to an enterprise member, the purchaser would leave the area. On numerous occasions other regular customers (addicts) would bring new customers into the area and act as a broker between the new customer and **OLIVER** or another enterprise member who was selling drugs. Once **OLIVER** or another enterprise member sold drugs (typically crack cocaine) to the new customer, the enterprise member would give the broker (addict) a small amount of crack cocaine as payment for bringing the customer to the area. **OLIVER** did this on numerous occasions.

During the course of their drug trafficking activities and crimes of violence, **OLIVER** and other enterprise members would possess firearms, such as .30 caliber rifles, 9mm handguns, .40 caliber handguns and 7.62 x 39 caliber assault rifles. **OLIVER** and the other enterprise

members used firearms to prevent competition from other drug dealers; to protect their business of distributing in controlled substances; and to maintain and advance the goals of the enterprise. Furthermore, **OLIVER** and the other members of the enterprise purchased, maintained and circulated a collection of firearms for use in criminal activity by the enterprise members. **OLIVER** and his co-conspirators regularly supplied firearms to each other to carry and use while participating in the day-to-day operations of the enterprise. The enterprise members, including **OLIVER**, either regularly had firearms on their persons, in their residences or in their stash locations in the neighborhood when selling drugs.

OLIVER also personally participated in acts of violence against rivals of the Josephine Dog Pound and its members. Members of the enterprise were expected to retaliate with force against rivals who committed acts of violence against enterprise members. The shooting of C.A. and murder of Herbert Lane, which is discussed later, was such an act of retaliation.

As additional evidence of the enterprise and racketeering activity, the government would introduce evidence of the following acts committed by **OLIVER**, among others:

On June 22, 2006, NOPD officers were conducting surveillance at Josephine and South Saratoga Streets based on citizens complaints of narcotics activity. During the surveillance, officers saw **COREY OLIVER** working a “stash” in an alley at 2125 Josephine Street. Officers watched **OLIVER** make a hand- to- hand narcotics transaction with an unknown woman. The officers stopped and detained **OLIVER** based on their observations, but were not able to apprehend the female customer. Officers requested the assistance of a K-9 unit to search the area where they saw **OLIVER** working the “stash.” The K-9 dog found numerous foils of heroin under the house at 2125 Josephine Street where the officers saw **OLIVER** working the

“stash.” Officers arrested **OLIVER** and during a search incidental to arrest, a plastic bag with crack cocaine was found in **OLIVER’S** pants. **OLIVER** also had \$293.00 on him. **OLIVER** made an admission during the search stating, “it’s there,” referring to the crack cocaine in his pants.

On November 7, 2006, officers were on patrol at South Saratoga and Josephine Streets when they saw **COREY OLIVER** and two co-conspirators standing on the corner. When they saw the officers, **OLIVER** and his two co-conspirators began to walk away. Officers found a clear plastic bag with several pieces of crack cocaine on the sidewalk where **OLIVER** and his co-conspirators were. **OLIVER** was arrested for the crack cocaine.

On April 17, 2007, NOPD officers were on patrol in the area of South Saratoga and Josephine Streets based on a citizen’s complaint. The citizen described two individuals in that specific area, who were going to retaliate for a shooting on April 17, 2007, in which they were the victims. At the intersection of Josephine Street, officers saw **COREY OLIVER** and a co-conspirator. When **OLIVER** saw the police car, he walked inside the residence at 2023 Josephine Street, where the officers found a small bag of marijuana. The co-conspirator with **OLIVER** was found in possession of a firearm. Both **OLIVER** and the co-conspirator were arrested.

On November 6, 2007, **COREY OLIVER** voluntarily submitted to a polygraph examination conducted by the Federal Bureau of Investigation (FBI) in reference to a murder investigation which Michael Anderson, a/k/a “Mike Mike” was a suspect. During the interview, **OLIVER** stated that he deals crack cocaine with Michael Anderson, a/k/a “Mike Mike” and another co-conspirator. **OLIVER** admitted that he deals between 15 to 70 grams of crack

cocaine per night on Josephine Street and makes more than \$400.00 per night selling crack cocaine. **OLIVER** stated that he would not possess firearms while he was dealing crack cocaine for fear of being caught by the police in possession of both crack cocaine and a firearm.

OLIVER stated that instead a co-conspirator would carry a firearm while **OLIVER** sold crack cocaine. **OLIVER** would in turn hold a firearm while co-conspirators sold crack cocaine.

For sentencing purposes the government and the defendant, **COREY OLIVER**, agree that **OLIVER** should be held responsible for at least 280 grams but not more than 500 grams of cocaine base (“crack cocaine”), which he distributed during the course of the conspiracy. At least 280 grams of cocaine base (“crack cocaine”) were distributed by him and other members of the conspiracy after his state drug conviction on January 10, 2008, for possession of crack cocaine and possession of heroin, till the return of this Superseding Indictment on August 6, 2010. Additionally, **OLIVER** is also responsible for a negligible amount of cocaine hydrochloride (“cocaine powder”), heroin and marijuana, as those drugs were distributed by him and because it was reasonably foreseeable to him that those drugs were sold by other members of the conspiracy.

JONES has a felony drug conviction for possession of crack cocaine and heroin, LA-R.S. 40:967(C)(2) and 40:966(C)(1), from January 10, 2008, Orleans Parish Criminal District Court, Case Number 467-636 “D.”

SHOOTING OF C.A., J.Y. AND MURDER OF HERBERT LANE

Shortly before 3:40 p.m. on September 4, 2006, **COREY OLIVER**, Darryl Shields, and Theron Jones were together in a car when they passed an apartment complex located at 1828 Washington Avenue where C.A. and others, who were affiliated with a rival drug gang, were

gathered. **OLIVER**, Shields, and Jones saw C.A. and other rival gang members hanging outside the apartment complex, while at the same time, C.A. saw **OLIVER**, Shields and Jones drive by. As they were driving by, a short confrontation occurred between C.A., **OLIVER**, Shields and Jones. **OLIVER**, Shields, and Jones then drove past the apartment complex and drove to Josephine Street, where all three then got on bicycles and rode back to the apartment complex on Washington Avenue to confront C.A. Shields was armed with a 9MM handgun at this time. When C.A. saw **OLIVER**, Shields and Jones approach the apartment complex for a second time he knew that a confrontation was about to take place. C.A. shot at them with his .380 caliber handgun, while Shields fired his 9MM handgun at C.A. C.A. attempted to get away from Shields and ran up the apartment stairwell and down the second floor balcony. Shields chased C.A. part of the way, and continued to fire his 9MM handgun at C.A. Shields fired his handgun at least 11 times, while C.A. fired his handgun three times. Shields struck C.A. in his leg, and Shields struck J.Y., who was a resident of the apartment complex, in his hand. Shields also fatally shot and killed Herbert Lane, who was another resident of the apartment complex and an innocent bystander. While at the scene of the shooting and murder, **OLIVER** dropped his cell phone on Dryades Street. This phone was later recovered by the police.

An autopsy of Herbert Lane was conducted on September 5, 2006, by the Orleans Parish Coroner's Office, who determined Lane's cause and manner of death to be homicide by multiple gunshot wounds.

All of the drugs that were recovered by the police from **OLIVER** and his co-conspirators during the course of this investigation were sent to the NOPD Crime Laboratory. All of the drugs tested positive for cocaine base, cocaine hydrochloride, heroin and marijuana.

At trial the government would present the testimony of numerous individuals who have purchased drugs from and who have sold drugs to and with the defendants, including **COREY OLIVER**. The government will also produce recorded jail telephone conversations of **OLIVER** and other co-conspirators speaking of enterprise matters, including violence and narcotics distribution. The government will also produce the testimony of several New Orleans Police officers who have arrested the defendants during the course of this conspiracy. The government will also produce crack cocaine, powdered cocaine, heroin, marijuana, money, firearms, and additional evidence recovered in connection with this conspiracy.

Limited Nature of Factual Basis

This proffer of evidence is not intended to constitute a complete statement of all facts known by **OLIVER** and described by **OLIVER** to the government, but rather is a minimum statement of facts intended to prove the necessary factual predicate for the guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for **OLIVER'S** plea of guilty to the charged offenses.

ELIZABETH PRIVITERA
Assistant United States Attorney

(Date)

JOHN-MICHAEL LAWRENCE
Attorney for Defendant

(Date)

COREY OLIVER
Defendant

(Date)

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

UNITED STATES OF AMERICA

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CRIMINAL DOCKET NO. 09-398

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v.

SECTION: "F"

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**JEROME SIMMONS
a/k/a "SIMMONS"**

*

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FACTUAL BASIS

The above-named defendant **JEROME SIMMONS, a/k/a "SIMMONS,"** has agreed to plead guilty as charged to Count 19 of the 24-count Superseding Indictment in this case. Should this matter have proceeded to trial, the United States of America would have proven beyond a reasonable doubt, through the introduction of relevant, competent, and admissible testimonial, physical and demonstrative evidence, the following facts to support the allegations against the defendant, **JEROME SIMMONS, a/k/a "SIMMONS," ("SIMMONS"):**

EVIDENCE OF THE ENTERPRISE AND RACKETEERING ACTIVITY

Beginning on a date unknown, but prior to January 2003, and continuing up to on or about August 6, 2010, in the Eastern District of Louisiana and elsewhere, the defendant **JEROME SIMMONS, a/k/a "SIMMONS,"** was a member of an enterprise which operated principally in the New Orleans Metropolitan area. The principal locations where members and associates of the enterprise operated included, but were not limited to, two areas located in Orleans Parish that

is commonly referred to as “Central City.” Area one encompassed Washington Avenue to the East, Danneel Street to the North, Sixth Street to the West and Baronne Street to the South. The boundaries of area two included Josephine Street to the East, Claiborne Avenue to the North, Jackson Avenue to the West and Baronne Street to the South.

The criminal organization, including its leadership, membership, and associates, constituted an “enterprise,” as defined by Title 18, United States Code, Section 1961(4) (“the enterprise” and the “Josephine Dog Pound”), that is, a group of individuals associated in fact. The Josephine Dog Pound constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise. This enterprise was engaged in, and its activities affected, interstate and foreign commerce.

A principal objective of the Josephine Dog Pound was to obtain as much money and things of value as possible through the trafficking of controlled substances, including cocaine base (“crack cocaine), cocaine hydrochloride (“cocaine powder”), heroin and marijuana. It was further an objective of the enterprise to commit acts of violence, for the following purposes, among others: to enrich the enterprise and its members; to create, maintain, and control a marketplace for the distribution of its controlled substances; to enforce discipline among members of the enterprise; to protect the enterprise and its members from detection, apprehension, and prosecution by law enforcement; to prevent, thwart, and retaliate against acts of violence perpetrated by rivals against the enterprise and its members; to keep victims, potential victims and witnesses in fear of the enterprise; and to promote and enhance the reputation and standing of the enterprise and its members. **SIMMONS** participated in one such

act of violence on December 27, 2007, which was the shooting of B.P., and is described later in this document.

The government's evidence regarding the existence and nature of the Josephine Dog Pound would come from a variety of sources, including but not limited to the testimony of witnesses and cooperating individuals, police searches and seizures, historical arrests of members of the enterprise, and recorded telephone conversations between and among enterprise participants. Collectively, this evidence would show that the Josephine Dog Pound began before 2003, and the members of the enterprise included, among others, Michael Anderson, a/k/a "Mike-Mike," Harold Jones, a/k/a "Dooley," a/k/a "Doody," Theron Jones, a/k/a "T.J.," Jeremiah Millro, a/k/a "Jerry," Corey Oliver, Darryl Shields, a/k/a "Snook," a/k/a "Black," **JEROME SIMMONS, a/k/a, "SIMMONS,"** and Tony Simmons, a/k/a "Yay-Yo." Michael Anderson, "Mike-Mike," a leading member, was a distributor of controlled substances and gunman for the enterprise. Harold Jones, a/k/a "Dooley," a/k/a "Doody," acted as a leader and principal supplier for the enterprise, and as a distributor of controlled substances and gunman for the enterprise. Theron Jones, a/k/a "T.J.," Jeremiah Millro, a/k/a "Jerry," Corey Oliver, Darryl Shields, a/k/a "Snook," a/k/a "Black," **JEROME SIMMONS, a/k/a, "SIMMONS,"** and Tony Simmons, a/k/a "Yay-Yo," acted as distributors of controlled substances and as gunmen for the enterprise.

Beginning sometime in at least 2003, **SIMMONS** and his co-conspirators enlisted friends, family members, and individuals known to them from the neighborhood and elsewhere to assist them in distributing controlled substances, including heroin, cocaine, cocaine base, and marijuana, in the Central City area of New Orleans. These individuals include Michael

Anderson, a/k/a “Mike-Mike,” Harold Jones, a/k/a “Dooley,” a/k/a “Doody,” Theron Jones, a/k/a “T.J.,” Jeremiah Millro, a/k/a “Jerry,” Corey Oliver, Darryl Shields, a/k/a “Snook,” a/k/a “Black,” and Tony Simmons, a/k/a “Yay-Yo,” and others. Anderson and Jones obtained quantities of heroin, cocaine, cocaine base, and marijuana from sources of supply, which they supplied to other members of the organization to distribute. **SIMMONS** and members of the enterprise distributed crack cocaine on a regular basis from the street corners on Josephine Street and Dryades Street/Washington Avenue in an “open air drug market.” **SIMMONS** and other members of the enterprise used a number of different safe locations, stash houses and alleyways, located in the Central City neighborhood, within the Eastern District of Louisiana, and elsewhere, to process, package and store the enterprise’s controlled substances before distribution, and to store firearms possessed and maintained by members of the enterprise.

SIMMONS and other enterprise members sold drugs to various purchasers/users who were regular customers who lived in the Central City neighborhood. The enterprise members additionally sold drugs to other customers who came to the Central City area specifically to purchase drugs. **SIMMONS** and the enterprise members sold drugs, especially crack cocaine, to numerous purchasers/users on a regular basis since sometime before 2003. When a purchaser/user entered the Josephine Street area or the Washington/Dryades Street area, he would be directed to any one of the enterprise members, including **SIMMONS**, who happened to be selling that day. Once the purchaser/user bought the drugs and gave money to a enterprise member, the purchaser would leave the area. On numerous occasions other regular customers (addicts) would bring new customers into the area and act as a broker between the new customer and **SIMMONS** or another enterprise member who was selling drugs. Once **SIMMONS** or

another enterprise member sold drugs (typically crack cocaine) to the new customer, the enterprise member would give the broker (addict) a small amount of crack cocaine as payment for bringing the customer to the area. **SIMMONS** did this on numerous occasions.

During the course of their drug trafficking activities and crimes of violence, **SIMMONS** and other enterprise members would possess firearms, such as .30 caliber rifles, 9mm handguns, .40 caliber handguns and 7.62 x 39 caliber assault rifles. **SIMMONS** and the other enterprise members used firearms to prevent competition from other drug dealers; to protect their business of distributing in controlled substances; and to maintain and advance the goals of the enterprise. Furthermore, **SIMMONS** and the other members of the enterprise purchased, maintained and circulated a collection of firearms for use in criminal activity by the enterprise members. **SIMMONS** and his co-conspirators regularly supplied firearms to each other to carry and use while participating in the day-to-day operations of the enterprise. The enterprise members, including **SIMMONS**, either regularly had firearms on their persons, in their residences or in their stash locations in the neighborhood when selling drugs.

SIMMONS also personally participated in acts of violence against rivals of the Josephine Dog Pound and its members. Members of the enterprise were expected to retaliate with force against rivals who committed acts of violence against the enterprise, and against witnesses and victims who cooperated with law enforcement in the investigation against the Josephine Dog Pound and its members. The attempted murder of B.P., which is discussed later, is such an act of retaliation.

As additional evidence of the enterprise, racketeering activity, and RICO and drug conspiracy, the government would introduce evidence of the following acts committed by **SIMMONS**, among others:

SPECIFIC OVERT ACTS OF THE RICO, DRUG AND GUN CONSPIRACY

On February 11, 2002, at 3:13 p.m. in the 2400 block of St. Andrew Street, New Orleans Police Officers arrested Terrance Simmons, the brother of co-defendant Tony Simmons, and the cousin of **JEROME SIMMONS**. As Terrance Simmons was getting arrested, Tony Simmons and **JEROME SIMMONS** approached the area and started shouting, “That’s my people, you motherfuckas. You bitches are wrong.” Officers warned Tony and Jerome **SIMMONS** that they were interfering with a lawful police investigation. Tony and Jerome **SIMMONS** were instructed to approach the police vehicle, at which time both fled the area. Tony Simmons was apprehended in the 2100 block of South Liberty Street, and Jerome **SIMMONS** was stopped in the 2100 block of Josephine Street. Jerome **SIMMONS** had \$30 on him and a small bag of marijuana. Tony Simmons had \$185.00 on him. Tony and Jerome **SIMMONS** continued to yell at the officers and stated, “Ya’ll are a bunch of hoes, you bitches just started a war. We gonna kick your asses. You just started a war with Josephine and Liberty. Ya’ll come around there again and we gonna shoot your ass’, We’re Josephine Street hard hitters.”

On June 30, 2002, Jerome **SIMMONS** was dealing marijuana and powder cocaine from 2115 South Liberty Street. **SIMMONS** was storing the drugs in the left side alley next to the residence. While under police surveillance, **SIMMONS** distributed a controlled substance to an unknown individual around 2:30 p.m.. Officers stopped **SIMMONS** and found one large clear

plastic bag which contained 32 small bags of marijuana and 29 small bags of powder cocaine. **SIMMONS** also had \$160.00 on him.

On February 14, 2004, at 1:00 p.m., NOPD officers were investigating Sam's Bar, located at 1239 South Rampart Street, for running an alcoholic beverage outlet without a state license. Numerous people were inside the bar at the time of the investigation. **SIMMONS**, who was inside the bar, threw down 18 bags of powder cocaine near the front door. **SIMMONS** was arrested. Co-defendant Michael Anderson, who was underage at the time, was also inside the bar. On March 16, 2007, Jerome **SIMMONS** pled guilty to possession of cocaine in Orleans Parish Criminal District Court, Case Number 447-894 "J."

On February 17, 2005, at 6:20 p.m., **SIMMONS** was dealing powder cocaine from the corner of LaSalle Street and Josephine Street. Officers saw **SIMMONS** deal drugs to an unknown subject, when they decided to approach **SIMMONS**. **SIMMONS** tried to remove the drugs from his front pockets. **SIMMONS** had one plastic bag containing 20 small Ziploc bags of powder cocaine.

On January 15, 2009, **SIMMONS** and another unindicted co-conspirator were driving in a pick-up truck near Martin Luther King Boulevard and Clara Street. Officers conducted a traffic stop of the drive, at which time they discovered the truck was reported stolen on January 4, 2009. **SIMMONS** was the front seat passenger in the truck and was arrested. There was physical damage to the driver's side door, indicating it had been forcibly opened. Neither **SIMMONS** nor the driver had keys for the truck. **SIMMONS** pled guilty to unauthorized use of a motor vehicle having a value of less than \$1000, on May 14, 2009, in Orleans Parish Criminal District Court, Case Number 483-869 "L."

On August 12, 2010, Jerome **SIMMONS** was the front seat passenger in a car that was pulled over for traffic violations. The deputy asked all four occupants for identifications. **SIMMONS** did not have any identification and he told the deputy that his name was “Darnell Simmons, d.o.b. 01/19/87.” **SIMMONS** stated he had been previously arrested in New Orleans. A criminal check was conducted and no record was found under that name and date of birth. The deputy asked **SIMMONS** again for his name and date of birth. He gave the same name, “Darnell Simmons,” but gave a different date of birth of 08/16/86. No record was found under this information. The deputy asked **SIMMONS** several more times what his real name and date of birth were, and **SIMMONS** told him his real date of birth was 8/16/85. The fourth time the deputy requested his real name and date of birth, **SIMMONS** told him he was lying because he was wanted out of Louisiana and that he did not want to go to jail yet. **SIMMONS** finally gave the deputy his correct date of birth and name, and the officer discovered he was wanted by ATF in connection with this federal indictment.

COUNT 19 - VIOLENT CRIME IN AID OF RACKETEERING
ASSAULT WITH A DANGEROUS WEAPON

On December 25, 2007, two enterprise members, Wendell Millro, a/k/a “Pee Wee,” and James Jones, a/k/a “Doo Doo,” were shot and killed on Josephine Street. **SIMMONS** and other enterprise members believed that B.P. and others were responsible for the shooting. On December 26, 2007, Jerome **SIMMONS** had a phone conversation with co-defendant, Tony Simmons, who was incarcerated in Orleans Parish Prison. Jerome **SIMMONS** and Tony Simmons discussed the whereabouts of B.P. and how to locate him, the fact that the murdered enterprise members did not have guns on them, and the enterprise’s current gun status. This call was recorded by the Orleans Parish Sheriff’s Office.

On December 27, 2007, Jerome **SIMMONS** and Darryl Shields and other enterprise members drove to 2411-2413 South Robertson Street with the intention of killing B.P. This address is the residence of B.P.'s mother. When **SIMMONS**, Darryl Shields and the others arrived at the location, they found B.P. standing in front of the residence, while B.P.'s mother was on the porch. **SIMMONS** and Shields got out of the car and shot at B.P. B.P. fired back at **SIMMONS** and Shields. B.P. was shot in his leg, and **SIMMONS** was shot in his leg. Thirty 9MM casings and six 7.62 x 39 caliber casings were recovered from the scene.

On the same day as the shooting, **SIMMONS** went to Tulane Hospital for treatment of his gunshot wound. While there, an NOPD officer interviewed **SIMMONS** about his gunshot. **SIMMONS** initially stated that he was shot at South Claiborne Avenue and Jackson Avenue. **SIMMONS** changed his story and stated he was shot at Fourth Street and South Robertson Street. **SIMMONS** was advised of his rights at this time and was advised that he was under investigation for a shooting. **SIMMONS** then admitted that he was in fact in a shootout with B.P. **SIMMONS** stated that a black Dodge Charger pulled up and three gunmen exited and shot at him, one of whom was B.P.

SIMMONS and Shields tried to kill B.P. in retaliation for the December 25, 2007, shooting and killings of two members of the Josephine enterprise by B.P. and others. **SIMMONS** acknowledges and agrees that he participated in the shooting of B.P. to enhance or maintain his status in the enterprise.

All drugs recovered by law enforcement officers from the members of the enterprise during the course of this conspiracy were tested at the New Orleans Police Crime Lab and tested positive for cocaine base, cocaine hydrochloride, heroin and/or marijuana.

At trial the government would present the testimony of numerous individuals who have purchased drugs from and who have sold drugs to and with the defendants, including **JEROME SIMMONS**. The government will also produce recorded jail telephone conversations of **SIMMONS** and other co-conspirators speaking of enterprise matters, including violence and narcotics distribution. The government will also produce the testimony of several New Orleans Police officers who have arrested the defendants during the course of this conspiracy. The government will also produce crack cocaine, powdered cocaine, heroin, marijuana, money, firearms, and additional evidence recovered in connection with this conspiracy.

Limited Nature of Factual Basis

This proffer of evidence is not intended to constitute a complete statement of all facts known by **SIMMONS** and described by **SIMMONS** to the government, but rather is a minimum statement of facts intended to prove the necessary factual predicate for the guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for **SIMMONS'** plea of guilty to the charged offenses.

ELIZABETH PRIVITERA
Assistant United States Attorney

(Date)

MAURICE LANDRIEU
Assistant United States Attorney

(Date)

BRUCE ASHLEY
Attorney for Defendant

(Date)

JEROME SIMMONS
Defendant

(Date)