

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

**UNITED STATES OF AMERICA**

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**CRIMINAL DOCKET NO. 10-335**

**v.**

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**SECTION: “G ”**

**MARK CLEON ROGERS**

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**FACTUAL BASIS**

The above-named defendant, **MARK CLEON ROGERS**, has agreed to plead guilty as charged to Counts one, two , three of the superseding Bill of Information now pending against him. 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, **MARK CLEON ROGERS**. Unless stated otherwise, all events set forth herein occurred in the Eastern District of Louisiana.

On December 29, 2009, **ROGERS** was arrested after New Orleans Police Officers observed **ROGERS** distribute cocaine to two individuals that were subsequently arrested and

identified **ROGERS** as a distributor. Officers arrested **ROGERS** and found him in possession of heroin (.55 grams) and crack cocaine (24.52 grams). In addition, **ROGERS** was in possession of \$2,420.00 in US currency that was confiscated and placed into evidence.

After obtaining the keys to his apartment, Officers conducted a sweep on the apartment to ensure that other persons were not present or able to destroy evidence. Officers secured the residence and then obtained a search warrant with a New Orleans magistrate and executed a search of **ROGERS** apartment at 1811 ½ Baronne Street.

Officers located a shoe box at the foot of **ROGERS** bed with the following narcotics: cocaine hydrochloride, heroin and marijuana. Officers also located a loaded Taurus 9mm handgun serial number T2563588 (14 rounds) next to his bed on a small night stand. The following weights of the narcotics seized at the apartment are as follows: marijuana (476.20 grams); cocaine hydrochloride (672.18 grams)

All of the above narcotics were tested by the Louisiana State Police drug lab and tested positive for marijuana, crack cocaine, heroin and cocaine hydrochloride.

On or about December 1, 2010, a DEA undercover Special Agent (hereinafter UC) made and received a series of recorded telephone calls between himself and co-defendant, **DESHON BRIMMER**. During those calls, the UC and **BRIMMER** discussed the location of the proposed sale of heroin. The UC told **BRIMMER** that he wished to meet with **BRIMMER** at the Rouse's food store located in the vicinity of Carrollton Avenue and Orleans Avenue, New Orleans, Louisiana. **BRIMMER** told the UC that the source of supply for the six ounces of heroin wished to meet in the area near the intersection of Claiborne Avenue and Tulane Avenue, New Orleans,

Louisiana. The UC requested to meet at the Rouse's food store. **BRIMMER** later agreed to meet with the UC at the Rouse's food store on Carrollton Avenue, New Orleans, Louisiana.

At approximately 11:50 a.m., agents observed **BRIMMER** sitting in the passenger seat of a silver colored 2006 Chevrolet Monte Carlo with Louisiana license RPN464 in the Rouse's grocery store parking lot. The Monte Carlo was registered to co-defendant, **MARK TOBIAS**, 1223 St. Mary Street, New Orleans, Louisiana. Surveillance agents also observed the driver of the Monte Carlo, **MARK TOBIAS**, inside Rouse's food store.

At approximately 11:55 a.m., the UC parked his vehicle in the parking lot of the Rouse's food store. A short-time later, **BRIMMER** exited the passenger side of the Monte Carlo, walked to the UC's vehicle, knocked on the window, and told the UC that he was waiting on an individual to bring the heroin.

**BRIMMER** then exited the Rouse's food store, walked to, and entered the passenger side of the Monte Carlo. A few minutes later, co-defendant **MARK TOBIAS** exited the Rouse's food store and entered the driver's side of the Monte Carlo.

At approximately 12:17 a.m., the Monte Carlo driven by **TOBIAS** drove away from the parking lot of the Rouse's food store. At approximately 12:23 p.m., the Monte Carlo returned to the parking lot of the Rouse's food store. **MARK TOBIAS** was still driving the vehicle and **BRIMMER** was the passenger. A white colored Toyota Tundra (driven by co-defendant **MARK ROGERS**) pick-up truck followed the Monte Carlo into the Rouse's parking lot.

Moments later **BRIMMER** exited the passenger side of the Monte Carlo and walked to and entered the passenger side of the UC's vehicle. **MARK TOBIAS** departed the area immediately driving the Monte Carlo away from Rouse's parking lot. **MARK ROGERS** was parked near the UC's Vehicle and **ROGERS** remained in the Toyota pick up.

While meeting with the UC, **BRIMMER** showed the heroin to the UC. The UC told **BRIMMER** that he had to call for someone to bring the money. **BRIMMER** then exited the UC's vehicle, walked to, and entered the passenger side of **ROGERS** Toyota Tundra driven by co-defendant **MARK ROGERS**. Both **ROGERS** and **BRIMMER** stayed in the Toyota for a minute or so until the UC told DEA agents that **BRIMMER** had the heroin with him. Agents then immediately surrounded the pick up truck and arrested **BRIMMER** and **MARK ROGERS**, the driver of the Toyota Tundra. After **MARK ROGERS** was removed from the Toyota Tundra, a large bag of heroin was observed in plain view tucked inside of the driver's side arm rest.

All the narcotics recovered from **ROGERS** vehicle on December 1, 2010 were tested at the DEA South Central Laboratory in Dallas, Texas and were confirmed to be 168.94 net grams heroin, 7.1 net grams of cocaine hydrochloride and 6.4 net grams of cocaine base (crack).

**ROGERS** admits that his possession with the intent to distribute narcotics in violation of the Federal Controlled Substances Act between December 2009 and December 2010 with **DESHON BRIMMER, MARK TOBIAS** and others known and unknown to the Grand Jury was a drug conspiracy in the Eastern District of Louisiana. **ROGERS** admits that he intentionally conspired, confederated and agreed to engage in drug trafficking with his co-conspirator **DESHON BRIMMER** and others known and unknown to the Grand Jury in that he deliberately possessed and distributed at least 100 net grams of heroin, a quantity of crack

cocaine, a quantity of cocaine hydrochloride and a quantity of marijuana in violation of Federal law in the Eastern District of Louisiana.

For purposes of calculating drug quantities pursuant to United States Sentencing Guidelines §2D1.1, **ROGERS** was responsible for the trafficking of at least 100 grams of heroin in addition to a quantity of marijuana, a quantity of crack cocaine and a quantity of cocaine hydrochloride in Eastern District of Louisiana.

An expert with ATF would testify that the weapons that **ROGERS** possessed at the time of the arrest on December 29, 2009 was not manufactured in the State of Louisiana and therefore, had to have crossed state lines and affected interstate commerce. The ATF expert also determined that the subject firearms met the legal definition of a “firearm” as defined in Title 18, U.S.C. Section 921(a)(3).

Finally, **MARK CLEON ROGERS** admits that on or about October 20, 1999, in the Eastern District of Louisiana, that he was convicted of a crime punishable by imprisonment for a term exceeding one year, to wit: a conviction on or about November 12, 1999, in case number 99-386, Federal District Court Eastern District of Louisiana, for possession with intent to distribute crack cocaine, in violation of 21 U.S.C. 841. **MARK CLEON ROGERS** agrees he was then sentenced to serve 135 months in the custody of the Federal Bureau of Prisons.

**ROGERS** also admits that he was a felon and not permitted to own or possess the Taurus 9mm handgun serial number T2563588 that was found in his apartment at 1811 ½ Baronne Street New Orleans.

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MARK CLEON ROGERS  
Defendant

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W. SCOTT LARAGY  
Assistant United States Attorney

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CLIF STOUTZ  
Attorney for Defendant

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

**UNITED STATES OF AMERICA**

\*

**CRIMINAL DOCKET NO. 10-335**

**v.**

\*

**SECTION: “G ”**

**MARK TOBIAS**

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**FACTUAL BASIS**

The above-named defendant, **MARK TOBIAS**, has agreed to plead guilty as charged to Count one pending against him and the Bill of Information pending against him. 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, **MARK TOBIAS**. Unless stated otherwise, all events set forth herein occurred in the Eastern District of Louisiana.

On December 1, 2010, **MARK TOBIAS** called co-defendant **BRIMMER**'s cell phone and asked him if he wanted to get together that morning. **BRIMMER** agreed and **TOBIAS** came by his **BRIMMER**'s house near the intersection of 4th Street and St. Thomas Street in New

Orleans. While they were driving in **TOBIAS'** car, a DEA undercover Special Agent (hereinafter UC) made and received a series of recorded telephone calls between himself and **BRIMMER**. During those calls, the UC and **BRIMMER** discussed the purchase of heroin from **BRIMMER** and meeting at a location to conduct the sale of heroin. The UC told **BRIMMER** that he wished to meet with **BRIMMER** at the Rouse's food store located in the vicinity of Carrollton Avenue and Orleans Avenue, New Orleans, Louisiana. **BRIMMER** confirmed the sale and then **BRIMMER** placed calls to a few people in order to obtain the heroin for the sale.

**BRIMMER** (while still in the car with **TOBIAS**) then told the UC that the source of supply for the six ounces of heroin wished to meet in the area near the intersection of Claiborne Avenue and Tulane Avenue, New Orleans, Louisiana. **BRIMMER** and **TOBIAS** drove to a gas station at Claiborne Avenue and Tulane Avenue and met with his source of supply. The source of supply furnished the heroin to **BRIMMER** without payment. **BRIMMER** and **TOBIAS** then proceeded to the Rouse's food store on Carrollton Avenue, New Orleans, Louisiana to complete the sale with the DEA UC agent.

At approximately 11:50 a.m., DEA agents observed **BRIMMER** sitting in the passenger seat of a silver colored 2006 Chevrolet Monte Carlo with Louisiana license tag RPN-464 in the Rouse's grocery store parking lot. The Monte Carlo was registered to co-defendant **MARK TOBIAS**, 1223 St. Mary Street, New Orleans, Louisiana. Surveillance agents also observed the driver of the Monte Carlo, **MARK TOBIAS**, inside Rouse's food store.



At approximately 11:55 a.m., the UC parked his vehicle in the parking lot of the Rouse's food store. **BRIMMER** exited the passenger side of the Monte Carlo, walked to the UC's vehicle, knocked on the window, and told the UC that he was waiting on an individual to bring the heroin. (In fact, **BRIMMER** was in possession of the heroin at this time).

**BRIMMER** then went into the Rouse's food store, then walked to, and entered the passenger side of the Monte Carlo. A few minutes later, co-defendant **TOBIAS** exited the Rouse's food store and entered the driver's side of the Monte Carlo.

At approximately 12:17 a.m., the Monte Carlo (driven by **TOBIAS**) drove away from the parking lot of the Rouse's food store. **BRIMMER** contacted his cousin **MARK ROGERS** by telephone to help him complete the sale of heroin because **TOBIAS** needed to depart the meet. **ROGERS** agreed and met **BRIMMER/TOBIAS** and followed them back to Rouses parking lot. At approximately 12:23 p.m., the Monte Carlo returned to the parking lot of the Rouse's food store. **TOBIAS** was still driving the vehicle and **BRIMMER** was the passenger. A white colored Toyota Tundra pick-up truck followed **TOBIAS'** Monte Carlo into the Rouse's parking lot driven by co-defendant **MARK ROGERS**.

Moments later, **BRIMMER** exited the passenger side of **TOBIAS'** Monte Carlo and walked to and then entered the passenger side of the UC's vehicle. **TOBIAS** then departed the parking lot area driving the Monte Carlo. **BRIMMER** was carrying **TOBIAS'** cell phone because his cell phone was dead and he left his cell phone in **TOBIAS'** Monte Carlo.

While meeting with the UC, **BRIMMER** showed the heroin to the UC. The UC told **BRIMMER** that he had to call for someone to bring the money. **BRIMMER** then exited the

UC's vehicle, walked to, and entered the passenger side Toyota Tundra driven by co-defendant **MARK ROGERS**.

The UC told agents that **BRIMMER** had the heroin with him and the Agents then approached **ROGERS'** truck and arrested **BRIMMER** and **MARK ROGERS**, the driver of the Toyota Tundra. After **ROGERS** was removed from the Toyota Tundra, a large bag of heroin and a smaller bag was observed in plain view tucked inside of the driver's side arm rest. Agents field tested the contents of the bags and it tested positive for heroin. Final net weight of the heroin seized was 168.94 grams. All of the heroin recovered in this matter was tested at the DEA South Central Laboratory in Dallas, Texas.

DEA agents conducted a traffic stop on **TOBIAS** after arresting **BRIMMER** and **ROGERS** at Rouses. **TOBIAS** was Mirandized and acknowledged his rights before talking with agents. **TOBIAS** admitted driving **BRIMMER** to Rouses and that **BRIMMER's** cell phone was in his Monte Carlo. After **TOBIAS'** arrest, agents asked **TOBIAS** where he lived. **TOBIAS** indicated he resided with his mother on Felicity Street. Agents went to his mother's home and his mother executed a consent search of her home. Agents searched **TOBIAS'** bedroom and discovered cocaine powder (cocaine hydrochloride). **TOBIAS** admits that this cocaine was his alone and the final net weight of the cocaine hydrochloride was 28.9 net grams.

**TOBIAS** admits that his possession with the intent to distribute heroin with **MARK ROGERS** and **DESHON BRIMMER** and others known and unknown to the Grand Jury was a drug conspiracy in the Eastern District of Louisiana and was a violation of the Federal Controlled Substances Act.

For purposes of calculating drug quantities pursuant to United States Sentencing Guidelines §2D1.1, **TOBIAS** was responsible for the trafficking of at least 100 grams of heroin in Eastern District of Louisiana.

In addition, **TOBIAS** agrees that the narcotics seized from him in State of Louisiana case 493246 “J” and 500198 “J” are to be included in his Federal case for purposes of relevant conduct as related to his conspiracy to distribute narcotics in the Eastern District of Louisiana. In particular, the marijuana and cocaine hydrochloride seized in case number 500198 “J” and 493246 “J” was confirmed to marijuana (1 net gram) and cocaine hydrochloride (2.83 net grams) by the NOPD drug lab. **TOBIAS** also agrees the 28.9 net grams of cocaine hydrochloride seized from his residence belonged to him and will be included as relevant conduct pursuant to the sentencing guidelines and it was confirmed to be cocaine hydrochloride by the DEA lab in Dallas Texas.

Finally, **TOBIAS** admits that on or about August 23, 2001, in Orleans Parish Criminal District Court for the State of Louisiana, that he was convicted of a crime punishable by imprisonment for a term exceeding one year, to wit: a conviction on or about August 23, 2001, in case number 417273 “E”, for possession of cocaine. **TOBIAS** agrees he was then sentenced to serve 2 years in the custody of the Louisiana Department of Corrections

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MARK TOBIAS  
Defendant

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W. SCOTT LARAGY, LA Bar No. 25755  
Assistant United States Attorney

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ROBERT P. EARLY  
Attorney for Defendant

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

**UNITED STATES OF AMERICA**

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**CRIMINAL DOCKET NO. 10-335**

**v.**

\*

**SECTION: "G "**

**DESHON BRIMMER**

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**FACTUAL BASIS**

The above-named defendant, **DESHON BRIMMER**, has agreed to plead guilty as charged to Count one pending against him and the Bill of Information pending against him. 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, **DESHON BRIMMER**. Unless stated otherwise, all events set forth herein occurred in the Eastern District of Louisiana.

On April 29, 2010, **BRIMMER** distributed approximately one ounce of heroin to a Louisiana State Police Confidential Informant (CI) and a Confidential Source (CS) in New Orleans, Louisiana. The CI contacted **BRIMMER** and ordered up an ounce of heroin. Agents

and LSP troopers outfitted the CI with a wire and with serialized Official funds (OAF). The CI met **BRIMMER** at Annunciation and Washington Street and subsequently they relocated to 548 St Thomas Street. After Brimmer and the CI entered the residence and came back out, the CI departed the area and later met DEA agents at Wendy's restaurant on St. Charles Avenue. A few minutes after meeting the DEA agents, **BRIMMER** met with the CS and CI and distributed four packages of heroin to them in exchange for \$3,500.00 in recorded bills and received approximately one ounce of heroin and it was field tested and then sent to the DEA lab for analysis. Final net weight for the heroin was 28.3 grams.

On May 27, 2010, an LSP CS called **BRIMMER** to purchase an ounce of heroin. Agents provided \$3,000.00 in OAF to purchase the heroin. **BRIMMER** and the CI agreed to meet at Voo Doo BBQ. The CI then traveled to Voo Doo BBQ at 1501 St. Charles Avenue to meet with **BRIMMER**. After meeting and exchanging the money, **BRIMMER** provided approximately one ounce of heroin to the CI.

After the sale, LSP conducted a traffic stop on **BRIMMER** to positively ID **BRIMMER**. **BRIMMER** distributed the heroin in exchange for \$3,000.00 in recorded bills and the heroin was field tested and then sent to the DEA lab for analysis. Final net weight for the heroin was 27.3 grams.

On June 30, 2010, DEA agents provided a LSP CS with \$3,000.00 and a recording device. The CS proceeded to pick up **BRIMMER** at St. Thomas and 4<sup>th</sup> Street uptown. The CS and **BRIMMER** went to Wendy's restaurant on St. Charles Avenue, then proceeded to a Daiquiri shop on St. Charles Avenue. They proceeded to a Rally's restaurant on Louisiana and Barrone. Both **BRIMMER** and the CS used their cell phones while at Rally's. They departed

and parked near a grocery near Martin Luther King and S. Liberty. The CS then dropped off **BRIMMER** at his residence at St Thomas and 4<sup>th</sup> Street.

Later that evening, the CS picked up **BRIMMER** and proceeded downtown near Canal Place shopping centre and Harrah's. **BRIMMER** exited the CS's car and waited near Harrah's Casino then he entered a Toyota Corolla LA tag SZM 762 and then came back to meet the CS. **BRIMMER** provided approximately one ounce of heroin to the CS and departed the area. The CS provided the heroin to the DEA and it was field tested and then sent to the DEA lab for analysis. Final net weight for the heroin was 24.6 grams.

On December 1, 2010, **BRIMMER** was arrested after the UC ordered a large quantity of heroin for approximately \$16,000.00. On December 1, 2010, co-defendant **MARK TOBIAS** called **BRIMMER**'s cell phone and asked him if he wanted to smoke marijuana with him. **BRIMMER** agreed and **TOBIAS** came by his mother's house near the intersection of 4th Street and St. Thomas Street in New Orleans. While they were driving in **TOBIAS**' car, a DEA undercover Special Agent (hereinafter UC) made and received a series of recorded telephone calls between himself and **BRIMMER**. During those calls, the UC and **BRIMMER** discussed the purchase of heroin from **BRIMMER** and meeting at a location to conduct the sale of heroin. The UC told **BRIMMER** that he wished to meet with **BRIMMER** at the Rouse's food store located in the vicinity of Carrollton Avenue and Orleans Avenue, New Orleans, Louisiana. **BRIMMER** confirmed the sale and then placed calls to a few people in order to obtain the heroin for the sale.

**BRIMMER** then told the UC that the source of supply for the six ounces of heroin wished to meet in the area near the intersection of Claiborne Avenue and Tulane Avenue, New

Orleans, Louisiana. **BRIMMER** and **TOBIAS** drove to a gas station at Claiborne Avenue and Tulane Avenue and met with his source of supply. The source furnished the heroin to **BRIMMER** without payment. **BRIMMER** and **TOBIAS** then proceeded to the Rouse's food store on Carrollton Avenue, New Orleans, Louisiana.

At approximately 11:50 a.m., DEA agents observed **BRIMMER** sitting in the passenger seat of a silver colored 2006 Chevrolet Monte Carlo with Louisiana license tag RPN-464 in the Rouse's grocery store parking lot. The Monte Carlo was registered to co-defendant **MARK TOBIAS**, 1223 St. Mary Street, New Orleans, Louisiana. Surveillance agents also observed the driver of the Monte Carlo, **MARK TOBIAS**, inside Rouse's food store.

At approximately 11:55 a.m., the UC parked his vehicle in the parking lot of the Rouse's food store. **BRIMMER** exited the passenger side of the Monte Carlo, walked to the UC's vehicle, knocked on the window, and told the UC that he was waiting on an individual to bring the heroin. (In fact, **BRIMMER** was in possession of the heroin at this time).

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Toyota Tundra pick-up truck followed the Monte Carlo into the Rouse's parking lot driven by co-defendant **MARK ROGERS**.

Moments later, **BRIMMER** exited the passenger side of **TOBIAS'** Monte Carlo and walked to and then entered the passenger side of the UC's vehicle. **TOBIAS** then departed the parking lot area driving the Monte Carlo. **BRIMMER** was carrying **TOBIAS'** cell phone because his cell phone was dead and he left it in **TOBIAS'** Monte Carlo.

While meeting with the UC, **BRIMMER** showed the heroin to the UC. The UC told **BRIMMER** that he had to call for someone to bring the money. **BRIMMER** then exited the UC's vehicle, walked to, and entered the passenger side Toyota Tundra driven by co-defendant **MARK ROGERS**.

The UC told agents that **BRIMMER** had the heroin with him and the Agents then approached **ROGERS'** truck and arrested **BRIMMER** and **MARK ROGERS**, the driver of the Toyota Tundra. After **ROGERS** was removed from the Toyota Tundra, a large bag of heroin and a smaller bag was observed in plain view tucked inside of the driver's side arm rest. Agents field tested the contents of the bags and it tested positive for heroin. Final net weight of the heroin seized was 168.94 grams.

**BRIMMER** admits that his possession with the intent to distribute heroin with **MARK ROGERS** and **MARK TOBIAS** and others known and unknown to the Grand Jury was a drug conspiracy in the Eastern District of Louisiana and was a violation of the Federal Controlled Substances Act.

For purposes of calculating drug quantities pursuant to United States Sentencing Guidelines §2D1.1, **BRIMMER** was responsible for the trafficking of at least 100 grams of



heroin in Eastern District of Louisiana. All the narcotics recovered in this matter were tested at the DEA South Central Laboratory in Dallas, Texas and were confirmed to be heroin.

Finally, **BRIMMER** admits that on or about November 19, 1996, in Orleans Parish Criminal District Court for the State of Louisiana, that he was convicted of a crime punishable by imprisonment for a term exceeding one year, to wit: a conviction on or about November 19, 1996, in case number 386060J, for possession with intent to distribute cocaine. **BRIMMER** agrees he was then sentenced to serve 5 years in the custody of the Louisiana Department of Corrections

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DESHON BRIMMER  
Defendant

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W. SCOTT LARAGY, LA Bar No. 25755  
Assistant United States Attorney

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CHRISTOPHER EDWARDS  
Attorney for Defendant