

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

**UNITED STATES OF AMERICA** \* **CRIMINAL NO. 20-088**  
  
v. \* **SECTION: "S"**  
  
**RICHARD GRAY** \*

\* \* \*  
**FACTUAL BASIS**

The above-named defendant, **Richard GRAY**, has agreed to plead guilty as charged to Counts One and Six of the Indictment 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 allegation against the defendant, **Richard GRAY ("GRAY")**:

Unless stated otherwise, all the facts set forth herein occurred within the Eastern District of Louisiana.

In August 2018, agents with the Drug Enforcement Administration ("DEA") received information from a Confidential Source ("DEA CS") that Ellis Batiste Sr. ("Batiste Sr.") was a major drug trafficker in the St. John the Baptist Parish area. Batiste Sr. distributed various types and quantities of illegal narcotics, including cocaine, heroin, and methamphetamine. Batiste Sr. consistently used telephones to arrange drug transactions with his co-conspirators, including Richard Gray ("Gray"). The DEA CS said that he/she could purchase drugs from Batiste Sr. The DEA CS also stated that he/she knew that Batiste Sr. sold drugs from his residence at [REDACTED] LaPlace, Louisiana and provided a phone number of [REDACTED] that he/she believed

BATISTE SR. utilized. Telephone number [REDACTED] is a Verizon Wireless cellular telephone number subscribed to Tracy Morgan, [REDACTED] LaPlace, Louisiana 70068.

On August 28, 2018, at about 3:32 p.m., agents instructed the DEA CS to make a consensually monitored phone call to Batiste Sr. to arrange the purchase of \$100 of crack cocaine from Batiste Sr. Shortly after the phone call ended, agents searched the DEA CS for weapons and contraband, but they did not locate any. Agents provided the DEA CS with official DEA funds and conducted surveillance of the DEA CS as he/she went to Batiste Sr.'s [REDACTED] LaPlace, LA residence to conduct the purchase. Agents observed the DEA CS pull into Batiste Sr.'s driveway, enter the residence, and depart shortly after. After the controlled purchase, the DEA CS met with agents and provided them with the three grams of purchased crack cocaine. The DEA CS stated that once inside the residence, he/she went straight to the bedroom area where he/she observed Batiste Sr. lying on the bed. The DEA CS stated that Batiste Sr. handed the DEA CS the crack cocaine and the DEA CS handed him the money. In addition, the DEA CS stated that he/she observed a large bag of drugs, individually bagged and ready for sale, on the bed next to Batiste Sr. The drugs were analyzed at the DEA laboratory by Senior Forensic Chemist, [REDACTED]. [REDACTED] The drugs tested positive for cocaine base with a net weight of 1.94 grams.

On October 10, 2018, at about 2:21 p.m., agents instructed the DEA CS to make another consensually monitored call to Batiste Sr., this time, on [REDACTED] a new phone number, to arrange the purchase of crack cocaine. Phone number [REDACTED] is a Verizon Wireless cellular telephone number subscribed to Tracy Morgan, [REDACTED] LaPlace, LA 70068. Agents were present with the DEA CS during the consensually monitored phone call and dialed the [REDACTED] phone number for the DEA CS. During the call, agents believe Batiste Sr. indicated that he had \$150 worth of crack for the DEA CS. On October 11, 2018, at about 1:05

p.m., the DEA CS called Batiste Sr., who confirmed that he had \$150 worth of crack for the DEA CS and that he was preparing it for sale. Shortly after the phone call ended, agents searched the DEA CS for weapons and contraband, but they did not locate any. Agents provided the DEA CS with official DEA funds and conducted surveillance of the DEA CS as he/she went to Batiste Sr.'s [REDACTED] LaPlace, LA residence to conduct the purchase. Agents observed the DEA CS pull into Batiste Sr.'s driveway, enter the residence, and soon depart. After the meeting, the DEA CS met with agents and provided agents with the three grams of purchased crack cocaine. The DEA CS stated that upon entering the residence, he/she went straight to the living room area where Batiste Sr. was sitting before following Batiste Sr. to his bedroom from which Batiste Sr. retrieved the crack cocaine and sold it to the DEA CS. The drugs were analyzed at the DEA laboratory by Senior Forensic Chemist, [REDACTED]. The drugs tested positive for cocaine base with a net weight of 2.06 grams.

In January 2019, the DEA CS provided agents with a new phone number, [REDACTED] that Batiste Sr. was utilizing. On January 17, 2019, the Honorable Dana M. Douglas, United States Magistrate Judge for the Eastern District of Louisiana, signed an Order authorizing the installation and use of a pen register/trap and trace device on [REDACTED]. Agents also subpoenaed toll records for [REDACTED]. A review of the toll records and pen register data established that [REDACTED] made or received 5,384 calls from January 15, 2019 to February 21, 2019. Telephone number [REDACTED] also had the same subscriber name [REDACTED], address [REDACTED] [REDACTED] LaPlace, LA 70068), and service provider (Verizon Wireless) as the aforementioned telephone numbers utilized by Batiste Sr.

Notably, phone number [REDACTED] made contact 150 times with telephone number [REDACTED]. [REDACTED] subscribed to a Verizon Wireless prepaid customer, from January 15, 2019 to March 8,

2019, with the last contact on March 5, 2019. There were 150 voice contacts during this time frame, with the last voice contact on March 5, 2019. According to the DEA CS, the [REDACTED] telephone number was being used by Eli Moore ("Moore"). Additionally, in January 2019, the St. John the Baptist Parish Sheriff's Office Special Operations Division investigators cultivated their own confidential source ("SJSO CS") who identified Moore as a heroin source in the LaPlace, LA area and was using the [REDACTED] telephone number. On January 21, 2019, SJSO investigators used their SJSO CS to purchase one gram of heroin from Moore, one of Batiste Sr.'s sons. During the surveillance of the transaction, deputies observed Moore depart from [REDACTED] LaPlace, LA, and walk to the predetermined meeting place to conduct the transaction with the SJSO CS. The [REDACTED] is Batiste Sr.'s residence and where agents previously made controlled purchases. The drugs were analyzed at the St. John the Baptist Parish Sheriff's Office laboratory by Forensic Chemist, [REDACTED]. The drugs tested positive for heroin and had a net weight of 0.94 grams. SJSO investigators believe Batiste Sr. provided Moore the heroin Moore sold the SJSO CS.

Agents believed Batiste Sr. replaced the aforementioned telephone numbers with the [REDACTED] [REDACTED] telephone number in order to continue conducting illegal drug transactions. Agents believed Batiste Sr. was using the [REDACTED] number based on comparative analysis of toll records and pen register data, the fact that it had the same subscriber name, address, and service provider as the aforementioned telephones Batiste Sr. previously utilized, the DEA CS's confirmation that Batiste Sr. used the [REDACTED] telephone number, and the SJSO CS controlled purchase. Thus, agents applied for a Title III interception of telephone number [REDACTED] [REDACTED] and on March 18, 2019, the Honorable Carl J. Barbier, United States District Judge for the Eastern District of Louisiana, signed the order authorizing the interception of that telephone

number.

On April 7, 2019, at approximately 9:56 a.m., agents intercepted a call between Batiste Sr., using [REDACTED] and [REDACTED], a telephone number subscribed to and utilized by **GRAY**. During the call, **GRAY** stated that he was on his way to meet with an unknown male ("UM") and informed Batiste Sr. that the UM had yet to contact **GRAY**. The following is a transcription of the call:

**BATISTE:** Hello?  
**GRAY:** Hey.  
**BATISTE:** Yeah.  
**GRAY:** Hey, bro, I'm about a hour away, bro, and he ain't never called me yet.  
**BATISTE:** He'll call you back, alright.  
**GRAY:** Huh?

Batiste Sr. texted the UM immediately following this call, informing UM that "he" (**GRAY**) was an hour away and that the UM should reach out and give "him" (**GRAY**) his phone number.

On April 7, 2019, at approximately 12:20 p.m., agents intercepted a text message from Batiste Sr. to **GRAY** stating, "Call him." At about 1:46 p.m., agents intercepted an outgoing call from Batiste Sr. to **GRAY**, transcribed below:

**GRAY:** Hello?  
**BATISTE:** Yeah you are on the way back huh?  
**GRAY:** Yeah.  
**BATISTE:** What time you going to be back around?  
**GRAY:** I should be back around 3, 3:30, 4 o'clock.  
**BATISTE:** Alright, it's all good, alright.  
**GRAY:** Alright.

Here, Batiste Sr. confirmed that **GRAY** was on his way back from visiting with the UM and was asking for **GRAY**'s estimated time of return.

The next day, on April 8, 2019, at approximately 8:29 p.m., agents intercepted an outgoing call from Batiste Sr. to the UM. This conversation demonstrates that the UM had supplied narcotics to Batiste Sr. The following is a transcription of the call:



UM: Hello?

BATISTE: So, yeah, what you say, peep?

UM: What's going on big homie?

BATISTE: (Unintelligible).

UM: Oh, shit, right here chilling brother.

BATISTE: It's all good.

UM: Hey, uh, real quick man, had a quick question man.

BATISTE: Yeah.

UM: Um, that uh that stuff, it was the same? What I, what I sent?

BATISTE: Yeah, that is exactly it, bro.

UM: Yeah? Ok. Uh, it's in different, it's in little, uh, like little baggies. It's the exact same thing or is it, it's not over or anything like that? You didn't put nothing in it, huh?

BATISTE: No, no indeed. I don't even do that.

UM: Oh, ok.

BATISTE: (Unintelligible).

UM: My boy just called me. I didn't even open it, when ... when old buddy came, I just handed it to him the way you handed it to me.

BATISTE: Yeah, that's how it was

UM: And like.

BATISTE: Yeah, that's how it was. It was like, probably in eight balls or something like that there, but that, that's it, that's how I fuck with it.

UM: Oh, okay.

BATISTE: And that there.

UM: Cause, uh, he was just saying he was like, man it feels like it was over. I don't know if they put something in it, cause it's in little baggies. I was like, man, they shouldn't have, bro. I said, man.

BATISTE: No, no.

UM: Cause I don't think he would have went out of his way to bring it all the way back if they would have put something else in it.

BATISTE: No, unless I mixed some shit I had. If I'd a done that (unintelligible) but I just, you know, cause I had some shit, but that shit there wasn't right at all though, see that might have what happened, but I don't know, it ain't no big deal or nothing. Like that there.

UM: You did what now?

BATISTE: Remember I told you that I had some shit I was gonna send with it. But I ain't intentionally do it, if I done it. You see what I am saying?

UM: Yeah.

BATISTE: But I mean, I ain't tripping about nothing, or nothing, I just wanted to make sure I get it back to you, like that there.

UM: Oh okay, okay.

BATISTE: Yeah, yeah, yeah. So that's all it was. I might have fucked with that, and fucked with that other shit and got it mixed up a little something like that

there, man, but that probably what that is, if it's a little over or something like that there.

**UM:** But it wasn't gonna be mixed up with what I sent you, right? It was just in a separate little thing.

**BATISTE:** Right, no, no, I don't even cut. I don't cut it.

**UM:** Oh okay.

**BATISTE:** I don't mix nothing up.

**UM:** No, what I mean, (unintelligible) it wasn't gonna be in the same thing, it was gonna be in its own little separate thing, wasn't it?

**BATISTE:** I don't know man, cause I had this for like damn near like a month. I wrapped it up and just left it, put it on the side.

**UM:** Yeah.

**BATISTE:** I really don't remember every step I did. But I mean, it wasn't (unintelligible) or nothing, like that there, I mean, I don't remember, cause like I just had it sitting. You get what I'm saying? I don't even want to do that.

**UM:** Oh okay, how much would it have been, what you put in there?

**BATISTE:** I don't know. I don't know man. Might have been probably an eight ball or quarter over or something. I don't know. Cause I thought I had done, made a mistake yeah. Cause I wasn't sure, I just hadn't never paid it no mind.

**UM:** Right

**BATISTE:** You get what I am saying? Like that there?

**UM:** Ok, ok.

**BATISTE:** Yeah, yeah that's all that was, bro. But hey tell that dude, there ain't nothing, ain't nothing imitation about that shit.

**UM:** I got you, ok.

**BATISTE:** Yeah, yeah, yeah, yeah.

**UM:** No, I was just wondering. I was like man, I don't think, I don't think homeboy you know, shit, you know, he's always kept it one hundred with me man. You know what I mean?

**BATISTE:** Yeah, yeah it wasn't no (unintelligible), it was a blunder on my part but I just wanted to make sure unintelligible, that's on me.

**UM:** Ok, I feel you brother

**BATISTE:** You see what I am saying? Yeah, yeah cause I was seeing a difference. It looks, it's similar in color, but it was like a totally different thing though. You see what I am saying?

**UM:** Yeah.

**BATISTE:** I think mine was, might have been a little darker than the one I had, we had had together. I think it probably would have been a little darker.

**UM:** I gotcha.

**BATISTE:** Similar in color like that there.

**UM:** Ok, ok

**BATISTE:** Alright, yeah, yeah that's all that was though.

**UM:** Alright big homie, that's what's up brother.  
**BATISTE:** Yeah, you still ain't hitting it? Cause I mean trying to get back on that train. I'm still moving that way I've been moving but you know, if you hear something, let me know man, cause you know.  
**UM:** You already know man. I'm missing out on that man. You better believe it. Know what I mean?  
**BATISTE:** Yeah man, but you know, I got the number, cause I been doing 10 at a time, bro. I ain't even bullshitting you, bro. Like that there.  
**UM:** No, I hear you man. I know you ain't, man.  
**BATISTE:** Know what I'm saying so?  
**UM:** Yeah.  
**BATISTE:** But like, you know me and you good, and I want to keep it like that, but if shit change you know my number but (unintelligible), I'm a hit it up anyways though.  
**UM:** Bet that, bet that. Definitely keep in touch with me.  
**BATISTE:** Yeah, yeah, like that there. So it's all good, you hear?  
**UM:** Yeah, it's all good, brother, you already know.  
**BATISTE:** Alright, sure.  
**UM:** Alright later.

Here, Batiste Sr. talked to the UM about a quantity of drugs that Batiste Sr. had obtained from the UM and that **GRAY** had returned to the UM on behalf of Batiste Sr. The UM asks whether Batiste Sr. had added "cut" or dilutants to the drugs to increase the weight since the amount of drugs Batiste Sr. returned to the UM was greater than what the UM had originally provided Batiste Sr. Also, the UM asked why the drugs Batiste Sr. returned were broken down and packaged in smaller baggies. Batiste Sr. responded that he did not add any "cut" and explained that he had pre-packaged the drugs into smaller quantities for his customers.

On April 29, 2019, agents intercepted calls which led to the seizure of a large quantity of cocaine hydrochloride from Tracy Morgan. The intercepted calls indicated that Batiste Sr. sent Morgan to meet with the UM to obtain the cocaine hydrochloride. Morgan was arrested because of the seizure. This incident as well as intercepted calls between Batiste Sr. and the UM immediately after Morgan's arrest confirmed to agents that the UM was the main cocaine source of supply for Batiste Sr. Thus, agents believe that the drugs **GRAY** returned on behalf of Batiste



Sr. on April 7, 2019, was cocaine hydrochloride; therefore, had this matter proceeded to trial, the government would have proven beyond a reasonable doubt that the drugs GRAY possessed on April 7, 2019, was cocaine hydrochloride.


On October 15, 2019, agents arrested GRAY for the aforementioned offense.

The government and GRAY agree and stipulate that for sentencing purposes, GRAY will be held responsible for approximately 50 grams of a mixture and substance containing a detectible amount of cocaine hydrochloride.

**Limited Nature of Factual Basis**

This proffer of evidence is not intended to constitute a complete statement of all facts known by GRAY or 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 GRAY's plea of guilty to the charged offenses in Counts One and Six of the Indictment.


**READ AND APPROVED:**

  
MOBAYONLE OSUNDARE  
Assistant United States Attorney

5-25-2021  
Date

  
STEPHEN HAEDICKE  
Counsel for Defendant

5-21-21  
Date

  
RICHARD GRAY  
Defendant

5-21-21  
Date