

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	No. _____
)	
Plaintiff,	)	<u>COUNT ONE</u> : All Defendants
	)	21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and 846
v.	)	NMT 20 Years Imprisonment
	)	NMT \$1,000,000 Fine
BRODERICK TYRONE OTIS,	)	NLT 3 Years Supervised Release
[DOB: 12/25/1978]	)	Class C Felony
)	
SHERRI BERRY,	)	<u>COUNTS TWO - FIVE</u> : OTIS
[DOB: 10/26/1973]	)	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C)
	)	NMT 20 Years Imprisonment
JAMES "JIMMY" FRANCIS ECKART,	)	NMT \$1,000,000 Fine
[DOB: 01/17/1979]	)	NLT 3 Years Supervised Release
	)	Class C Felony
)	
JOHN J. CAZZATO, Jr.,	)	<u>COUNT SIX</u> : BERRY and ECKART
[DOB: 07/20/1963]	)	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C)
	)	NMT 20 Years Imprisonment
and	)	NMT \$1,000,000 Fine
	)	NLT 3 Years Supervised Release
MARLUS MAYS,	)	Class C Felony
[DOB: 10/10/1980])	
)	
Defendants.	)	<u>COUNTS SEVEN - NINE</u> : BERRY
	)	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C)
	)	NMT 20 Years Imprisonment
	)	NMT \$1,000,000 Fine
	)	NLT 3 Years Supervised Release
	)	Class C Felony
)	
	)	<u>COUNTS TEN - ELEVEN</u> : MAYS
	)	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C)
)	NMT 20 Years Imprisonment
)	NMT \$1,000,000 Fine
)	NLT 3 Years Supervised Release
)	Class C Felony
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-) ALLEGATION OF FORFEITURE: All
-) Defendants
-) 21 U.S.C. §§ 853(a)(1) and (2)
-) 18 U.S.C. § 982(a)(1) and
-) 18 U.S.C. § 982(a)(7)
-)
-) \$100 Mandatory Special Assessment Each Count

INDICTMENT

THE GRAND JURY CHARGES THAT:

COUNT ONE

From on or about July 2006, through on or about January 2010, said dates being approximate, in the Western District of Missouri, defendants, BRODERICK TYRONE OTIS, SHERRI BERRY, JAMES “JIMMY” FRANCIS ECKART, JOHN J. CAZZATO, JR., and MARLUS MAY, did knowingly and intentionally combine, conspire, confederate, and agree with Bruce Layne Baker and Kevin Martin Cummings, co-conspirators charged previously by Information, and others both known and unknown to the grand jury, to distribute a mixture or substance containing oxycodone, a Schedule II controlled substance, (normally, brand named “OxyContin”) contrary to the provisions of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C) and Section 846.

Manner and Means

1. Bruce L. Baker is an osteopathic physician who gave prescriptions to individuals so they could obtain OxyContin and oxycodone for illegal use or further illegal distribution. Baker would either be paid for providing the prescription, or be given some of the pills from the prescription after it was filled.

2. From approximately July 2006 through January 2010, Kevin M. Cummings illegally obtained OxyContin and oxycodone which was not intended for a medical purpose in several fashions, but in every case with the aid of a prescription provided by Baker. Cummings obtained prescriptions in his own name from Baker – without an examination – and filled the prescription at a pharmacy. Cummings also obtained prescriptions from Baker in the names of individuals who did not know their names were being used. Cummings filled those prescriptions or arranged for someone else to fill them at a pharmacy. Cummings also introduced co-conspirators to Baker so that they could obtain prescriptions for Schedule II controlled substances, including OxyContin and oxycodone, from Baker. The co-conspirators filled the prescriptions and further distributed the narcotics, and on many occasions gave some or all of the OxyContin and oxycodone to Cummings who then illegally distributed it. While Baker received pills from Cummings and the other co-conspirators as compensation for writing the prescriptions, they would also often pay Baker.

3. BRODERICK TYRONE OTIS, SHERRI BERRAY, JAMES “JIMMY” FRANCIS ECKART, and JOHN J. CAZZATO, JR., assisted Cummings in the further distribution of OxyContin and oxycodone to lower level distributors or drug users.

4. On or about March 20, 2007 to August 27, 2008, BRODERICK TYRONE OTIS provided Cummings with names, including his mother’s name, so that Baker could write them prescriptions for OxyContin or oxycodone. The prescriptions were filled and distributed to other distributors or users. OTIS was paid by Cummings for each prescription.

5. On or about May 27, 2009 to August 24, 2009, SHERRI BERRAY and JAMES “JIMMY” FRANCIS ECKART, aiding and abetting each other and others, arranged and

conducted sales of OxyContin and oxycodone to government confidential informants and an undercover Drug Enforcement Administration (DEA) agent. BERRAY obtained the prescription medication from Cummings. BERRAY was assisted in these distribution activities by JAMES ECKART. BERRAY and/or ECKART met with Cummings at 7446 Jarboe, 8004 Flora or 8012 Flora – all Kansas City, Missouri addresses linked to Cummings – before or after the distributions to pick up the drugs or return the money.

6. On or about December 13, 2005 to July 21, 2009, JOHN J. CAZZATO, JR., paid Cummings for OxyContin and oxycodone in a variety of ways, including by check from CAZZATO's business, Luxury Auto Sales. Checks were made payable to Cummings' businesses such as Advantage Mudjacking, Advantage Marketing, and C & A Holding, LLC, and were disguised as legitimate expenses such as "advertising" and other notations on the check memo line. On December 16, 2010, Cummings had a consensually-monitored telephone call with CAZZATO in which they discussed drug debts based on CAZZATO purchasing oxycodone tablets from Cummings. They had another call on December 26, 2010, in which they discussed the drug debt, checks for "advertisement" that covered pills, and drug sales. They also talked about their scheme of having people fill three prescriptions, giving two back and keeping one.

7. On or about February 2008 to January 2010, MARLUS MAYS arranged and conducted transactions or engaged in acts of distribution of OxyContin and oxycodone with individuals named and unnamed in this Indictment. MAYS would obtain names of lower level distributors or users, and he would then in turn provide those names to Baker for prescriptions. Baker wrote the prescriptions in these individuals' names and gave the prescriptions to MAYS, who took the prescriptions back to the named people who then filled the prescriptions. The

prescription-fillers would bring Mays the pills and/or keep some for themselves. MAYS would then distribute the pills. MAYS would either pay Baker for the prescriptions and/or give him some of the pills from the prescriptions.

Overt Acts

The following overt acts, among others, were committed by the co-conspirators in furtherance of the conspiracy alleged in Count One:

Counts Two through Eleven are hereby full incorporated herein by reference as overt acts committed in furtherance of the conspiracy alleged in Count One.

COUNT TWO

On or about July 15, 2008, in Jackson County, in the Western District of Missouri, the defendant, BRODERICK TYRONE OTIS, did knowingly and intentionally distribute some amount of OxyContin and oxycodone, a Schedule II Controlled Substance, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT THREE

On or about July 23, 2008, in Jackson County, in the Western District of Missouri, the defendant, BRODERICK TYRONE OTIS, did knowingly and intentionally distribute some amount of OxyContin and oxycodone, a Schedule II Controlled Substance, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT FOUR

On or about August 11, 2008, in Jackson County, in the Western District of Missouri, the defendant, BRODERICK TYRONE OTIS, did knowingly and intentionally distribute some

amount of OxyContin and oxycodone, a Schedule II Controlled Substance, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT FIVE

On or about August 27, 2008, in Jackson County, in the Western District of Missouri, the defendant, BRODERICK TYRONE OTIS, did knowingly and intentionally distribute some amount of OxyContin and oxycodone, a Schedule II Controlled Substance, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT SIX

On or about June 10, 2009, in Jackson County, in the Western District of Missouri, the defendant SHERRI BERRAY and JAMES “JIMMY” FRANCIS ECKART, aiding and abetting each other and others, did knowingly and intentionally distribute some amount of OxyContin and oxycodone, a Schedule II Controlled Substance, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT SEVEN

On or about July 1, 2009, in Jackson County, in the Western District of Missouri, the defendant, SHERRI BERRAY, did knowingly and intentionally distribute some amount of OxyContin and oxycodone, a Schedule II Controlled Substance, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT EIGHT

On or about July 15, 2009, in Jackson County, in the Western District of Missouri, the defendant, SHERRI BERRAY, did knowingly and intentionally distribute some amount of

OxyContin and oxycodone, a Schedule II Controlled Substance, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT NINE

On or about August 24, 2009, in Jackson County, in the Western District of Missouri, the defendant, SHERRI BERRY, did knowingly and intentionally distribute some amount of OxyContin and oxycodone, a Schedule II Controlled Substance, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT TEN

On or about March 19, 2009, in Jackson County, in the Western District of Missouri, the defendant, MARLUS MAY, did knowingly and intentionally distribute some amount of OxyContin and oxycodone, a Schedule II Controlled Substance, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT ELEVEN

On or about April 1, 2009, in Jackson County, in the Western District of Missouri, the defendant, MARLUS MAY, did knowingly and intentionally distribute some amount of OxyContin and oxycodone, a Schedule II Controlled Substance, contrary to the provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

ALLEGATION OF FORFEITURE

The allegations contained in Counts One through Eleven of this Indictment are re-alleged and incorporated by reference for the purpose of alleging a forfeiture pursuant to the provisions of Title 21, United States Code, Section 853.

Defendants, BRODERICK TYRONE OTIS, SHERRI BERRAY, JAMES "JIMMY" FRANCIS ECKART, JOHN J. CAZZATO, JR., and MARLUS MAYES, pursuant to Title 21, United States Code, Sections 853(a)(1) and (2), shall forfeit any property constituting, or derived from, any proceeds said defendants obtained, directly or indirectly, as a result of violations of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C) and Section 846, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violations, including but not limited to: U.S. Currency in the amount of at least \$65,000.

A TRUE BILL.

Dated: 1/26/11_____

/s/ Micheal R. Bailey
FOREPERSON OF THE GRAND JURY

/s/ Gregg R. Coonrod_____
Gregg R. Coonrod
Senior Litigation Counsel

/s/ Lucinda S. Woolery_____
Lucinda S. Woolery
Assistant United States Attorney