

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

UNITED STATES OF AMERICA * **CRIMINAL NO. 15-111**

v. * **SECTION: "N"**

DERRICK HOLLOWAY *

* * *

FACTUAL BASIS

Should this matter proceed to trial, both the Government and the defendant, **DERRICK HOLLOWAY** (hereinafter "Defendant" or "**HOLLOWAY**") do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crimes to which the defendant is pleading guilty. Specifically, **HOLLOWAY** has agreed to plead guilty as charged to the two-count Bill of Information charging him with unauthorized recording of a motion picture in a motion picture exhibition facility, in violation of Title 18, United States Code, Section 2319B (Count 1) and criminal infringement of copyright, in violation of Title 18, United States Code, Section 2319(b)(1) and Title 17, United States Code, Section 506(a)(1)(A) (Count 2). The Government and the defendant further stipulate that the Government would have proven, through the introduction of competent testimony and admissible, tangible exhibits, the following facts,

beyond a reasonable doubt, to support the allegations in the Bill of Information now pending against the defendant:

“Camming”

Representatives from the Motion Picture Association of America (“MPAA”) would testify that the MPAA is an industry trade group that represents motion picture, home video, and television industries including major producers and distributors of entertainment programming for public viewing in movie theaters, television, cable, and home video. The MPAA provides anti-piracy security protection for their members, which include Sony Pictures, Disney Enterprise Ltd., and 20th Century Fox.

A representative of the MPAA would testify that as part of its ongoing anti-piracy motion picture protection efforts, the MPAA contracts with a company that places a watermark on each new motion picture prior to commercial distribution. Each unique watermark contains specific information identifying every reel of film, the theater authorized to display the motion picture, and the time period for which display is authorized at that theater. The watermarking process enables analysis of an unauthorized “pirated” copy of a motion picture from which can be determined the specific theater location where the pirated copy was originally recorded and the time period for which the motion picture was shown at that particular theater.

Documentary evidence would be introduced to show that at all time relevant to this case, the AMC Westbank Palace 16 was a sixteen-screen motion picture exhibition facility located at 1151 Manhattan Boulevard, Harvey, Louisiana, within the Eastern District of Louisiana. The AMC Westbank Palace 16 routinely exhibited new, first-run movies that had not previously been available for public viewing or purchase.

HSI agents and MPAA representatives would testify that on September 23, 2014, a 7:15 p.m. showing of the first-run motion picture *When the Game Stands Tall* was scheduled to take place in Theater 14 of the AMC Westbank Palace 16. **HOLLOWAY** was present at Theater 14 and actively recorded (a/k/a “cam”) *When the Game Stands Tall*.

A representative from the MPAA would testify that Sony Pictures (“Sony”) holds the copyright for the motion picture *When the Game Stands Tall*. Sony never grants permission for individuals to record Sony motion pictures in a theater using video cameras. Sony did not grant **HOLLOWAY** permission to record any of its motion pictures, including *When the Game Stands Tall*.

Representatives of the MPAA and HSI agents would testify that subsequent investigation revealed that the copy of *When the Game Stands Tall* that **HOLLOWAY** recorded was uploaded via the Internet to servers organized and managed by individuals who collectively sought to obtain copies of the video and audio components of motion pictures currently showing in theaters that had not yet been commercially released on DVD/Blu-ray or in any other form for sale to the general public. After the “cammed” copies of a motion picture, such as *When the Game Stands Tall*, is uploaded to the server, other individuals refine and edit the video and audio portion of the motion picture, reproduce the motion picture, and distribute it (or make it available for download) without the permission of the copyright owners.

Representatives of the MPAA and HSI agents would testify that forensic analysis of other pirated, first-run motion pictures acquired by the MPAA revealed a pattern of activity establishing a connection between numerous pirated movies that had been reproduced, uploaded, and subsequently commercially distributed without authorization of the copyright owner and

HOLLOWAY'S recording of *When the Game Stands Tall*. Specifically, information obtained by the MPAA and HSI during the course of the investigation revealed that the following motion pictures, which had their theatrical release at AMC Westbank Palace 16, were "cammed" by **HOLLOWAY** at the AMC Westbank Palace 16 shortly after their theatrical release date on the dates below:

Date

Motion Picture

September 28, 2014

The Equalizer

In total, the Government would introduce evidence that **HOLLOWAY** cammed approximately ten (10) motion pictures in theaters during the year 2014.

These characteristics, as well as forensic evidence, would be introduced to establish that **HOLLOWAY** recorded the aforementioned motion pictures in the same manner and at the same theater as he recorded the motion picture *When the Game Stands Tall*. **HOLLOWAY** subsequently duplicated and sold copies of some or all of the motion pictures he "cammed," including *The Equalizer* and *When the Game Stands Tall*, in the Eastern District of Louisiana, as described below.

Criminal Infringement

Representatives from the Recording Industry Association of America (RIAA) would testify that the RIAA is a trade association whose members produce, manufacture, and distribute approximately 85% of all legitimate recorded music made in the United States. Some of these member companies are: Universal Music Group, Sony Music Entertainment, Warner Music Group, and EMI Music. The public recognizes those names and marks of the various well-known record companies that are members of the RIAA and associates those names and marks with high

quality pre-recorded sound products. The RIAA Anti-Piracy Unit was formed to assist federal, state, and local law enforcement agencies by providing expertise with respect to the sound recording industry and to assist in uncovering illicit counterfeiting, pirating, and bootlegging operations.

A Deputy from the Jefferson Parish Sheriff's Office (JPSO) would testify that on or about December 23, 2014, JPSO deputies observed **HOLLOWAY** selling and attempting to sell numerous pirated compact discs ("CDs") containing copyrighted musical works and digital video discs ("DVDs") containing copyrighted motion pictures and audiovisual works (collectively, "discs") from **HOLLOWAY'S** business, Gold Teeth Kingz, located at 1555 Manhattan Boulevard, Suite 4, Harvey, Louisiana 70058, within the Eastern District of Louisiana. Deputies observed **HOLLOWAY**, for the purpose of commercial advantage and private financial gain, infringe the copyright of copyrighted works by reproducing and distributing and by attempting to do so during a 180-day period ten (10) or more copies of one or more of the copyrighted works having a retail value of \$2,500 or more.

A JPSO deputy would further testify that, on January 8, 2015, HSI agents executed a validly issued state search warrant at Gold Teeth Kingz. During the search, deputies seized approximately 2,932 pirated DVDs containing copyrighted motion pictures and 749 pirated CDs containing copyrighted music. Specifically, deputies found pirated, unauthorized DVDs of numerous motion pictures, including *The Equalizer*, *When the Games Stands Tall*, and *American Sniper*. Agents also recovered pirated, unauthorized CDs of the numerous copyrighted musical works, including the following albums containing copyrighted musical works:

- "Kingdom Come," by Jay-Z
- "Dangerously In Love," by Beyoncé

- “OG Remasters (Vol. 1),” by 2Pac


Further, deputies located and seized one black and silver Toshiba Laptop computer, which **HOLLOWAY** used to copy the copyrighted material contained on pirated DVDs and CDs onto new, blank discs.

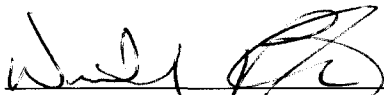
Representatives of the copyright holders for the material contained on the pirated discs produced and distributed by **HOLLOWAY**, namely the MPAA (for the copyrighted motion pictures) and the RIAA (for the copyrighted music), would testify that, upon reviewing the discs produced and distributed by **HOLLOWAY**, they were able to identify music, motion pictures, and audiovisual works that were copyrighted; that they held the relevant copyright to that specific music, motion pictures, and audiovisual works on the discs; and that **HOLLOWAY** had not obtained permission to reproduce any of the music, motion pictures, or audiovisual works on the discs. The representatives would further confirm that the discs duplicated existing, commercially available, copyrighted materials, including music, motion pictures, and audiovisual works.

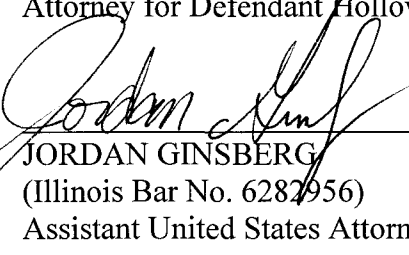
JPSO deputies would further testify that **HOLLOWAY** admitted that he did, for the purpose of commercial advantage and private financial gain, infringe the copyright of copyrighted works by reproducing and distributing and by attempting to do so during a 180-day period the aforementioned discs and that the retail value of the discs exceeded \$2,500.

The above facts come from an investigation conducted by deputies from JPSO and agents from HSI, documents and statements provided by the holders of the copyrighted works contained on the discs produced and distributed by **HOLLOWAY**, evidence and testimony obtained in the course of the investigation by JPSO and HSI, and voluntary statements made by the defendant, **DERRICK HOLLOWAY**, to deputies from JPSO.

APPROVED AND ACCEPTED:


DERRICK HOLLOWAY
Defendant
Date


WILLARD J. BROWN, SR., ESQ.
(Louisiana Bar No. _____)
Attorney for Defendant Holloway
Date 8/5/15


JORDAN GINSBERG
(Illinois Bar No. 6282956)
Assistant United States Attorney
Date 8-5-15