

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL NO. 21-110
v. * SECTION: "R"
LERTRICE JOHNSON *

* * *

FACTUAL BASIS

Should this matter have gone to trial, the government would have proved through the introduction of reliable testimony and admissible evidence the following facts to support the allegations charged by the government in Count 1 of the Indictment now pending against defendants ASHLEY McGOWAN (McGOWAN), **LERTRICE JOHNSON (L. JOHNSON)**, and DAVIENQUE JOHNSON (D. JOHNSON), collectively "the defendants," charging them with conspiracy to commit mail fraud. The defendants, along with their co-conspirators, beginning at a time unknown and continuing through the present, in the Eastern District of Louisiana and elsewhere, conspired to commit mail fraud in connection with a staged collision that occurred on June 8, 2016 in which the defendants falsely claimed to have been passengers in a car that was struck by a tractor-trailer.

Eight months earlier, on October 13, 2015, Anthony Robinson (A. Robinson), his wife Audrey Harris (Harris), his daughter Keishira Robinson (K. Robinson), and another individual conspired with Damian Labeaud (Labeaud) and others to stage an automobile collision with a tractor-trailer. McGOWAN was a friend and neighbor of A. Robinson. **L. JOHNSON** is mother to D. JOHNSON and aunt to K. Robinson.

On or before June 8, 2016, A. Robinson arranged for K. Robinson, **L. JOHNSON**, and D. JOHNSON to participate in a staged automobile collision with Labeaud similar to the October 13,

2015 staged collision. A. Robinson and Harris recruited McGOWAN to participate in the collision because the group understood that potential settlement amounts would increase with additional passengers in the vehicle. However, it was agreed that McGOWAN would be dropped off at the scene after the collision instead of riding in the car during the collision. McGOWAN paid A. Robinson \$250.00 in cash to participate in the fraud.

Witnesses would testify that, on June 8, 2016, A. Robinson, Harris, K. Robinson, **L. JOHNSON**, D. JOHNSON, McGOWAN, and Labeaud met at A. Robinson's apartment to conduct a staged automobile collision. For purposes of this collision, Labeaud would serve as a "slammer," or an individual who drove vehicles and intentionally collided with tractor-trailers. A. Robinson and Harris would serve as a "spotter," or an individual who would follow in a separate vehicle and pick up the slammer after the collision to flee the scene and evade detection. It was agreed that Labeaud would stage the collision while driving K. Robinson's gray 2006 Mazda MZ3 (Mazda).

Witnesses would further testify that K. Robinson, **L. JOHNSON**, and D. JOHNSON departed A. Robinson's apartment complex in the Mazda with Labeaud driving. A. Robinson, Harris, and McGOWAN followed the Mazda in a separate vehicle driven by A. Robinson. At approximately 1:07 P.M., while driving on Chickasaw Street near the intersection of Louisa Street in New Orleans, Labeaud observed a 2012 Volvo tractor-trailer owned by Transportation Consultants, Inc. ("TCI") stop at a stop sign before making a right turn onto Louisa Street. Labeaud intentionally collided the Mazda with the tractor-trailer as the tractor-trailer was turning. The tractor-trailer was a flatbed truck that was loaded with slabs of granite. Labeaud accelerated towards the TCI tractor-trailer and caused minimal impact between the front passenger-side of the Mazda and the rear driver-side of the tractor-trailer.

After the collision, Labeaud pulled over and exited the Mazda. Labeaud was picked up by A. Robinson and Harris in the spotter vehicle. At the same time, McGOWAN exited the spotter vehicle and entered the back seat of the Mazda to make it appear that she had been a passenger during the collision. K. Robinson relocated from the front passenger seat of the Mazda to the driver's seat to make it appear that she had been driving at the time of the collision, and D. JOHNSON relocated from the back row to the front passenger seat. After the collision, the spotter vehicle also flagged down the tractor-trailer to tell the truck driver that he had hit the Mazda.

Body camera footage from the New Orleans Police Department (NOPD) shows that after NOPD arrived at the scene, K. Robinson and D. JOHNSON reported that they and others had been in an accident. They falsely reported that K. Robinson was the driver of the Mazda and that the TCI tractor-trailer had struck her vehicle. They also falsely reported that McGOWAN had been in the vehicle at the time of the collision, and that **L. JOHNSON** and McGOWAN had gone to the hospital. In fact, McGOWAN and **L. JOHNSON** had not gone to the hospital, even though **L. JOHNSON's** blood pressure had spiked during the collision. Instead, **L. JOHNSON** was instructed to meet with the law firm of Attorneys A and B before receiving any medical treatment.

At trial, the government would present records showing that, on the day of the collision, Labeaud and Attorney A communicated multiple times by phone and by text both before and immediately after the collision. Records also indicate that Labeaud and Attorney A communicated on the days before and after the collision.

Later in the afternoon on June 8, 2016, at Labeaud's instruction, K. Robinson, **L. JOHNSON**, D. JOHNSON, McGOWAN, and Labeaud met at the law firm of Attorneys A and B. Attorney B already knew K. Robinson because Attorney B was representing her in conjunction with her October 13, 2015 collision. Attorney B also knew Labeaud, who claimed to be close with

the attorneys at the law firm, shook hands with Attorney B upon arrival, helped to distribute the law firm's paperwork to the group, and told the group they would be [REDACTED] with Attorney B. Attorney B then met with K. Robinson, **L. JOHNSON**, D. JOHNSON, and McGOWAN to discuss representing them in connection with the collision. Specifically, Attorney B discussed setting up immediate medical treatment for K. Robinson, **L. JOHNSON**, D. JOHNSON, and McGOWAN. Attorney B advised the group on which medical providers they should see.

During this meeting, **L. JOHNSON** asked Attorney B about going to the emergency room for her blood pressure. Attorney B advised **L. JOHNSON** not to go to the emergency room because it could interfere with her medical treatment for the accident. Instead, Attorney B advised **L. JOHNSON** to see a chiropractor the following day.

At trial, the government would present evidence showing that Labeaud was paid for this staged collision via cash. On June 8, 2016, there was a \$1,200.00 cash withdrawal from Attorney A's personal law firm account. On June 10, 2016, two days after the collision, there was another \$2,500.00 cash withdrawal from Attorney A's personal law firm account.

On or about June 6, 2017, Attorney B filed a Petition for Damages in Civil District Court for the Parish of Orleans in the State of Louisiana ("CDC"), on behalf of K. Robinson, **L. JOHNSON**, D. JOHNSON, and McGOWAN ("the K. Robinson Lawsuit") in connection with the June 8, 2016 collision. The K. Robinson Lawsuit was a personal injury lawsuit seeking damages from TCI, the Insurance Company of the State of Pennsylvania (which insured TCI), [REDACTED] (the truck driver), and Geico Casualty Company (which insured the Mazda). The allegations in this lawsuit were false in that they did not contain information about how Labeaud intentionally caused the collision between the Mazda and the TCI tractor-trailer and how McGOWAN was not in the Mazda at the time of the collision. Furthermore, the lawsuit falsely alleged that K. Robinson

had been the driver of the Mazda during the collision and omitted material information about how the passengers had agreed to stage the collision with Labeaud, A. Robinson, and Harris.

Before the lawsuit was filed, and throughout the time it was pending, Attorney B referred K. Robinson, **L. JOHNSON**, D. JOHNSON, and McGOWAN to medical providers for "treatment" due to the staged collision. All four individuals underwent various types of medical treatment, including chiropractor and doctor visits, MRIs and X-rays, and injections. In some instances, the injections increased pain instead of reducing pain. K. Robinson did not undergo as much treatment because Attorney B informed her that she would receive less money for this collision given her involvement in the 2015 collision. The law firm of Attorneys A and B provided a luxury vehicle for McGOWAN to travel to Baton Rouge, Louisiana for some of her treatment. Although she did not realize it at the time, McGOWAN later paid for the luxury vehicle transportation out of her settlement.

Defendants **L. JOHNSON**, D. JOHNSON, and McGOWAN were pressured by Attorney B to undergo frequent doctor visits and invasive medical treatments in order to increase the value of their lawsuit, drive-up their financial pay-outs, and increase the pay-outs to Attorney B and the law firm of Attorneys A and B. Attorney B would occasionally call the defendants and question why they missed doctor appointments.

While the lawsuit was pending, K. Robinson, **L. JOHNSON**, D. JOHNSON, and McGOWAN received loans or advances on their settlement from the law firm of Attorneys A and B in the form of checks. Specifically, K. Robinson, **L. JOHNSON**, D. JOHNSON, and McGOWAN received approximately \$3,000.00, \$5,625.00, \$2,850.00, and \$2,550.00, respectively, as advances from the law firm of Attorneys A and B. Attorney B advised members of the group that, to receive more advances from the firm, they had to attend more doctor visits

and undergo more medical treatments.

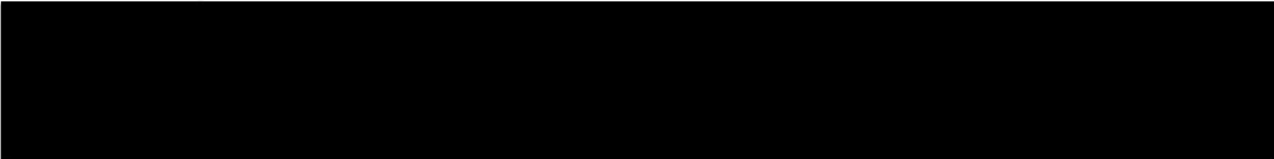
On or about January 10, 2018, **L. JOHNSON** and D. JOHNSON each provided false testimony in depositions taken in conjunction with the K. Robinson Lawsuit. On or about January 11, 2018, K. Robinson and McGOWAN each also provided false testimony in depositions taken in conjunction with the K. Robinson Lawsuit. All four individuals lied during their deposition and omitted key material facts. Namely, they provided false testimony about the circumstances of the June 8, 2016 collision and covered-up the fact that Labeaud had been the driver in this staged collision and that McGOWAN was not in the vehicle at the time of the collision. During the course of preparing for the depositions, Attorney B advised K. Robinson, **L. JOHNSON**, D. JOHNSON, and McGOWAN to keep their stories consistent. Attorney B also coached the group to fabricate testimony in an effort to strengthen their case.

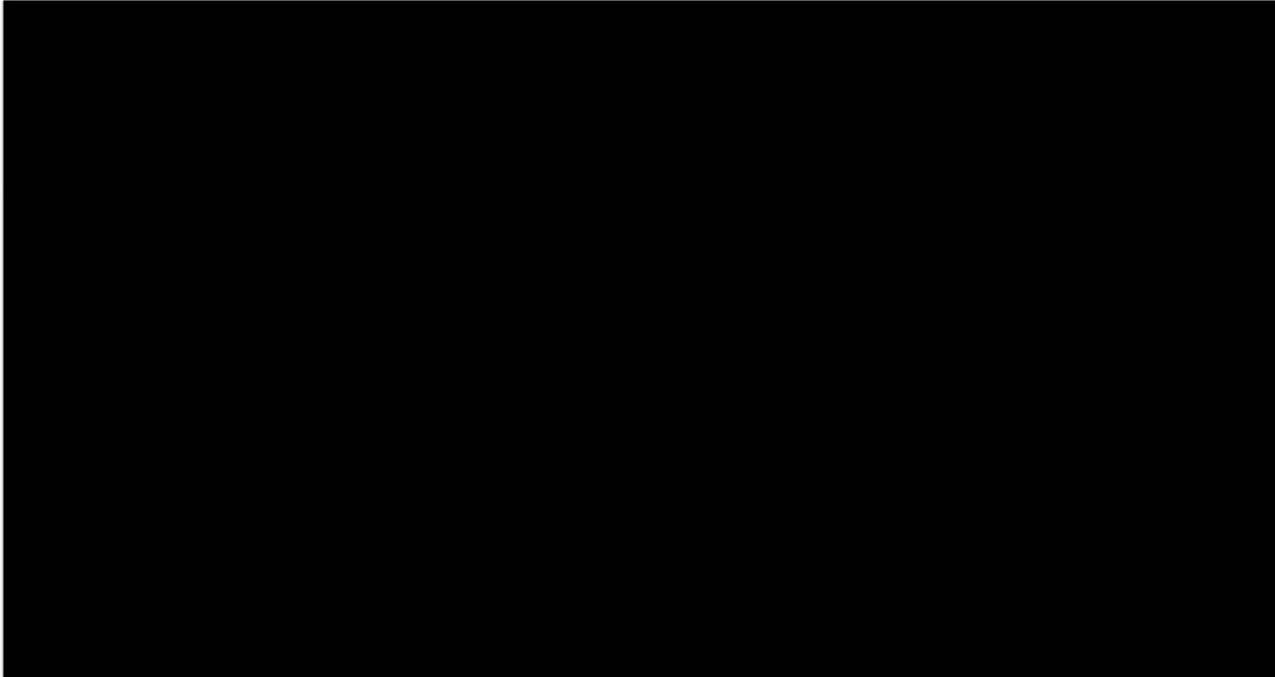
During the course of the litigation, Attorney B made settlement demands on behalf of K. Robinson, **L. JOHNSON**, D. JOHNSON, and McGOWAN. Specifically, on or about April 17, 2018, Attorney B demanded approximately \$100,000.00 in settlement for K. Robinson, \$325,000.00 in settlement for **L. JOHNSON**, \$375,000.00 in settlement for D. JOHNSON, and \$425,000.00 in settlement for McGOWAN. On or about September 3, 2018, Attorney B demanded policy limits to resolve the matter for all four individuals.

At trial, the Government would present evidence that on or about September 24, 2018, the case went to mediation and was settled. Between October 5 and October 13, 2018, a total of approximately \$545,000.00 in settlement funds were paid by AIG Transportation Company ("AIG") on behalf of its client, TCI, in connection with the K. Robinson Lawsuit. The settlement consisted of \$20,000.00 for K. Robinson, \$100,000.00 for **L. JOHNSON**, \$125,000.00 for D. JOHNSON, and \$300,000.00 for McGOWAN.

In effectuating the settlement, K. Robinson, **L. JOHNSON**, D. JOHNSON, McGOWAN, their co-conspirators, and others caused AIG to issue settlement checks that were subsequently mailed to New Orleans. On or about October 8, 2018, an employee at AIG mailed an envelope containing K. Robinson's settlement check via U.S. Postal Service from Hazelwood, Missouri to TCI's counsel in Metairie, Louisiana. On or about October 15, 2018, an employee of AIG mailed an envelope containing the three settlement checks for **L. JOHNSON**, D. JOHNSON, and McGOWAN via Federal Express ("FedEx") overnight from Bridgeton, Missouri to TCI's counsel in Metairie, Louisiana. Between on or about October 16, 2018 to October 17, 2018, Attorney B, or a representative on Attorney B's behalf, picked up the four settlement checks from the Metairie office of TCI's counsel in person and provided an executed Receipt, Release and Indemnification Agreement notarized by Attorney B for each of the four individuals.

On or about October 17, 2018, the law firm of Attorneys A and B deposited the four settlement checks for K. Robinson, **L. JOHNSON**, D. JOHNSON, and McGOWAN. The law firm of Attorneys A and B then distributed to each client their portion of the settlement. On or about October 18, 2018, the law firm of Attorneys A and B issued a check to K. Robinson for approximately \$7,500.10, a check to **L. JOHNSON** for approximately \$36,512.53, a check to D. JOHNSON for approximately \$42,550.93, and a check to McGOWAN for approximately \$50,000.70. Each client's portion of the settlement was far less than the settlement amounts because the law firm of Attorneys A and B received 40% attorney fees, and because each client paid for her own medical expenses out-of-pocket. These amounts, along with various other expenses, were deducted from the final settlement.





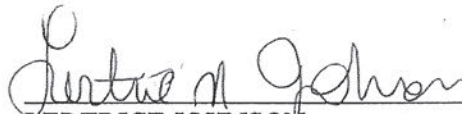
In sum, the Government's evidence would prove that defendants **ASHLEY McGOWAN**, **LERTRICE JOHNSON**, **DAVIENQUE JOHNSON**, and others, conspired to commit mail fraud by causing the filing of the K. Robinson Lawsuit seeking monetary damages that were premised on falsehoods in connection with the June 8, 2016 staged automobile collision, providing false information during the course of the lawsuit in an effort to recover monetary damages against the owner and insurer of the TCI tractor-trailer, and causing the use of mailings to facilitate recovery with this staged collision.

Limited Nature of Factual Basis

This proffer of evidence is not intended to constitute a complete statement of all facts known by ASHLEY McGOWAN, **LERTRICE JOHNSON**, DAVIENQUE JOHNSON, and/or the government. Rather, it is a minimum statement of facts intended to prove the necessary factual predicate for their guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for the plea of guilty to the charged offense by ASHLEY McGOWAN, **LERTRICE JOHNSON**, and DAVIENQUE JOHNSON.

The above facts come from an investigation conducted by, and would be proven at trial by credible testimony from, *inter alia*, Special Agents and forensic examiners from the Federal Bureau of Investigation and admissible tangible exhibits in the custody of the FBI.

READ AND APPROVED:


LERTRICE JOHNSON
Defendant

 4.1.22
JOHN GARRISON JORDAN
Counsel for Defendant


BRANDON S. LONG
Assistant United States Attorney