

AFFIDAVIT

Your affiant, James P. Brown, being duly sworn, deposes and states:

1. On or about January 7, 2009, your affiant was tasked by Assistant Special Agent In Charge, Michael NUSSBAUM, to conduct the follow-up inquiry into the witness tampering issue involving Courtney TUCKER, Carlos VENTO, and Trinity CLENDENING in case 08-20112-CR-GOLD. NUSSBAUM advised me that the United States Attorney's Office had authorized recordings into the matter and advised me to make contact with two witnesses—later identified as VENTO and CLENDENING.

2. On or about January 9, 2009, I was advised by DEA Special Agent Christopher WELLS of the nature of the investigation and was provided a brief synopsis of TUCKER's allegation of witness tampering. At that time, WELLS provided the contact information of VENTO and CLENDENING. WELLS later advised that recorded calls were authorized by the United States Attorney's Office and that witness VENTO recorded a telephone conversation with an investigator from the defense team. Moreover, WELLS advised that a second witness—CLENDENING—had attempted to record a conversation with the defense team, but that the recorder had malfunctioned.

3. After being tasked with this inquiry and debriefed by WELLS, I made efforts to contact VENTO and CLENDENING and coordinate future efforts with the two witnesses to record future conversations with members of the defense team. This effort could not be undertaken until VENTO and CLENDENING were formally established as DEA confidential informants for the specific purpose of this taint investigation. On January 9, 2009, I attempted to contact VENTO and CLENDENING to establish them as confidential informants, but did not hear from either VENTO or CLENDENING until January 15, 2009. On that date, I spoke with VENTO and subsequently met with him on January 20, 2009. On January 21, 2009, VENTO was established him as a confidential informant. Shortly after January 15, 2009, I spoke with CLENDENING and attempted to establish him as a confidential informant. However, CLENDENING did not make the scheduled meeting on January 20, 2009, as he had transportation issues.

4. On or about January 22, 2009, I advised VENTO to schedule an appointment with the defense team. However, between January 22, 2009 and February 17, 2009, VENTO was unable to do so.

5. On or about February 2, 2009, I again attempted to establish CLENDENING as a DEA confidential informant; however, due to his unavailability he was never established as a confidential informant and never coordinated a meeting with the defense team.

6. On February 13, 2009, I contacted AUSA Dustin DAVIS and advised him that although efforts were made to coordinate meetings between the defense team and VENTO and CLENDENING, no meetings occurred and no recordings were produced. At no time during my involvement in this inquiry did I issue VENTO and

CLENDENING recording devices. No recordings were made or produced from the time I was tasked with this inquiry until the time the inquiry was closed on February 17, 2009.

7. I did not learn of the existence of a functional recording made by CLENDENING until Thursday, February 19, 2009, when I was informed by DEA Special Agent Joshua TORANTO that CLENDENING had in fact taped his conversation with defense attorney David MARKUS.

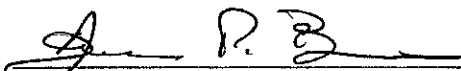
8. On Saturday, February 21, 2009, I traveled to Vero Beach, Florida, to meet with CLENDENING. Upon arriving in Vero Beach, I meet with CLENDENING's mother, who provided me with two audio cassette tapes. At that time, I contacted CLENDENING via telephone who advised that only two tapes existed and no other recordings were made. Moreover, CLENDENING further advised that he did not know the dates the recordings were made. At that time, I collected the two audio cassette tapes.

9. That same day, I listened to an audio recording designated TAPE 1, which is approximately two minutes in length. TAPE 1 consists of an introduction by MARKUS and MARKUS inquiring of CLENDENING if he knew Dr. Ali SHAYGAN. MARKUS further stated that the government was attempting to portray SHAYGAN as a drug dealer rather than as a doctor, and the defense team was attempting to portray SHAYGAN as a doctor. CLENDENING began to respond that SHAYGAN "was known as one of the doctors" The audio recording ends abruptly. CLENDENING previously revealed that the recording device became unplugged and the remainder of the conversation was not recorded.

10. That same day, I listened to an audio recording designated TAPE 2, which is approximately four minutes in length. TAPE 2 consists of MARKUS stating that he wanted to make it clear that he wanted the truth and that he wasn't paying money for anything. MARKUS was further recorded stating that he just wanted to get to know the witness and get the truth. During the recorded conversation, the witness stated that he understood and confirmed that was his understanding as well. MARKUS stated that he was thinking about the call when the witness stated he "needed money" The witness interrupted MARKUS and stated, "I didn't say I needed money, I was just saying that I'm broke." CLENDENING confirmed that he was broke and could not afford to drive to Miami to see MARKUS. MARKUS stated that all he could do for CLENDENING was have his investigator pick up CLENDENING, pay for a cab, or pay for CLENDENING's gas money. CLENDENING indicated that he would be most comfortable with the gas money. Moreover, CLENDENING stated that the DEA treated him fine, just like the defense team. CLENDENING stated that the DEA wanted the truth, to which MARKUS responded he wanted the same. TAPE 2 concludes with CLENDENING and MARKUS making arrangements to speak after the first of the New Year.

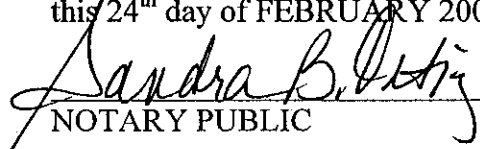
11. On Sunday, February 22, 2009, I transported the original cassette recordings of TAPE 1 and TAPE 2 to DAVIS at the United States Attorney's Office in Miami.

FURTHER AFFIANT SAYETH NAUGHT



JAMES P. BROWN,
SPECIAL AGENT
DRUG ENFORCEMENT ADMINISTRATION

Subscribed and sworn to before me
this 24th day of FEBRUARY 2009



NOTARY PUBLIC

