

# APPENDIX D

1 CROSS-EXAMINATION:

2 BY MR. MURRAY:

3 Q Sir, will you admit that you're a thief?

4 A No.

5 Q No?

6 A I wouldn't.

7 Q Didn't you plead guilty to being a thief?

8 A Yes, I did.

9 MR. DUSZKIEWICZ: Objection.

10 BY MR. MURRAY:

11 Q I am sorry, yes?

12 A Yes, I did.

13 MR. DUSZKIEWICZ: Objection.

14 THE COURT: Has been answered.

15 BY MR. MURRAY:

16 Q You have pled guilty to stealing the grill from the  
17 porch of those people you didn't even know; right?

18 A Yes, I did.

19 MR. DUSZKIEWICZ: Objection.

20 THE COURT: Overruled.

21 BY MR. MURRAY:

22 Q You also steal batteries from Hills?

23 A Yes, I did.

24 Q Okay. And you were born on June 16th, 1972?

25 A Yes, sir.

1 Q Also steal your mother's car?

2 A On occasion, yes, I have.

3 Q Steal checks from your mother?

4 A No, I have not.

5 Q Steal any checks from your mother?

6 A Never.

7 Q Would you admit to me that are you liar?

8 MR. DUSZKIEWICZ: Objection.

9 THE WITNESS: Would I admit to you that I was  
10 a liar?

11 BY MR. MURRAY:

12 Q Yes.

13 A No, I would not.

14 Q Well, didn't you just tell the lawyer over here,  
15 Mr. Doyle, the one in the blue suit, that you swore,  
16 falsely swore to the police?

17 A If they write the statement, I just went along with  
18 it.

19 Q Well, my question was didn't you just admit to Mr.  
20 Doyle that you falsely swore --

21 A Yes, I did.

22 Q -- in making a statement to the police?

23 A Yes, sir.

24 Q Do you think that, do you think that makes you a  
25 liar?

- 1 A No.
- 2 Q Before you -- do you recall testifying in the grand  
3 jury in June 17, 1997?
- 4 A Yes.
- 5 Q Went to a building in Buffalo?
- 6 A Yes.
- 7 Q Not this building, a newer building?
- 8 A Yes, I did go to a --
- 9 Q Were you represented by a lawyer at that time?
- 10 A No, I was not.
- 11 Q You weren't represented by a lawyer, but you were  
12 getting advice from the investigators, is that right?
- 13 A Yes, yes, I was.
- 14 Q The narcs, so to speak?
- 15 A Yes.
- 16 Q And the narcs had been harassing you over thirty  
17 times you said?
- 18 A Numerous, yes.
- 19 Q And these narcs were threatening you too also,  
20 weren't they?
- 21 A Yes.
- 22 Q They were threatening you, and they were saying  
23 things like, Dale, the hammer is about to drop, weren't  
24 they?
- 25 A On numerous occasions, yes.

1 Q Numerous occasions, and they were talking about a  
2 hammer that might put you in jail for twenty or thirty  
3 years?

4 MR. DUSZKIEWICZ: Objection.

5 THE WITNESS: They never said it like that,  
6 but --

7 BY MR. MURRAY:

8 Q What?

9 A They never said it that way, but yeah.

10 Q But that was the idea, wasn't it?

11 A Yes, sort of.

12 Q That, that you had, that you, if you don't get on  
13 board, then you might be in jail for twenty or thirty  
14 years, that is what they were saying to you?

15 A Yes.

16 MR. DUSZKIEWICZ: Objection, he said they  
17 didn't say that.

18 THE COURT: Go ahead.

19 BY MR. MURRAY:

20 Q And they told you there was only one way out for  
21 you; right?

22 A No.

23 Q Well, they told you that they could help you;  
24 right?

25 A Yes.

1 Q And they told you that they could help you only if  
2 you could help them; right?

3 A Yep.

4 Q And they told you that if you didn't help them they  
5 wouldn't help you?

6 A Correct.

7 Q And they told you that they couldn't cut the deals,  
8 but they would talk to the prosecutor, and get you a  
9 real good deal, didn't they?

10 A Yes.

11 Q And they told you that you might be able too, you  
12 might be able to stay out of jail completely, they might  
13 be able to help you stay out of jail; right?

14 A Yes.

15 Q And at the time that you were talking with them  
16 they were telling you that the U.S., that the Federal  
17 drug laws are really strict, didn't they?

18 A They are.

19 Q No, no, my question is they told you that, didn't  
20 they?

21 A They are, yes, they told me that.

22 Q They made that clear to you, didn't they?

23 A Yes.

24 Q And they told you that the Federal drug laws with  
25 the kind of quantity you were involved with had

1 mandatory minimum sentences; right?

2 A No, they never said nothing like that.

3 Q Okay. But they told you, they made it clear you  
4 might be in jail for many, many years; right?

5 A No, I have never actually been busted with anything  
6 over a bag of marijuana.

7 Q No, no, my point, didn't you just tell me that they  
8 made it clear to you that you might go to jail --

9 A Yes.

10 Q -- for something like ten or twenty years?

11 A I could have gotten that, yes.

12 Q Right?

13 A If I would have been busted.

14 Q Now, what were some of the ways that they harassed  
15 you?

16 A Dumped my car out.

17 Q They what?

18 A Frequently stopped me and dumped my car out.

19 Q They would stop you?

20 A Yep.

21 Q Even when you weren't doing anything wrong?

22 A Yep.

23 Q Tear your car apart?

24 A Three times on my way out of work they dumped my  
25 car right on the side of the road, yes.

1 Q And you are saying they did this without any legal  
2 justification?

3 A No, just other than, just stopped me and gave me a  
4 hard time.

5 Q Well, that must have been terrible, wasn't it?

6 A . Yep.

7 Q What else did they do to harass you?

8 A Show up at my work, show up at my house.

9 Q You think they were doing that to try to intimidate  
10 you?

11 A Yes, I'm sure they were, but, they followed me too,  
12 every where he went.

13 Q Must have made you very uncomfortable?

14 A Yes, on occasion, yes.

15 Q Did you feel threatened by this?

16 A No, at first it was game.

17 Q At first it was a game?

18 A Yes.

19 Q What other kind of things did they do to harass  
20 you, you said thirty times?

21 A They followed me to drug houses, tried to grab me  
22 when I was coming out and numerous things, tell me  
23 exactly what I said while I was there, and da, da, da,  
24 on down the line.

25 Q Well, is it fair to say that they were making your



1 life a living hell at that point?

2 A Yes, they were.

3 Q Okay. So they were making your life a living hell,  
4 and then they threatened you with something like ten or  
5 twenty years in jail; right?

6 A Yes.

7 Q And then they gave you, and then they gave you --

8 MR. DUSZKIEWICZ: Objection, Judge --

9 THE COURT: Let him answer the question.

10 MR. MURRAY: I thought he just nodded, he said  
11 right verbally.

12 THE COURT: Did you say right?

13 THE WITNESS: Yes, they did harass me.

14 THE COURT: Go ahead.

15 MR. DUSZKIEWICZ: Well, I am sorry, Judge,  
16 that is not a responsive answer.

17 THE COURT: No, he said you are correct.

18 MR. DUSZKIEWICZ: No, he said they did harass  
19 me.

20 THE COURT: Go ahead.

21 BY MR. MURRAY:

22 Q Well, after they made your life a living hell, then  
23 they threatened you with something like twenty or thirty  
24 years in jail, isn't that the truth?

25 A Well, they never threatened me with no thirty years

1 in jail, no.

2 Q Twenty, something like ten or twenty, that was the  
3 idea, wasn't it?

4 A Maybe, I don't know.

5 Q Did they tell you that -- did they tell you that if  
6 you didn't help them out, then you might miss out;  
7 right?

8 A No, they didn't say that either.

9 Q Did they tell you you had to do it now and not  
10 wait?

11 A Nah, they sent people like Child Protective  
12 Services over, and did their own little thing.

13 Q What did they do?

14 A Harass me just like the rest of them.

15 Q Huh?

16 A Harassment.

17 Q You have got to keep your voice --

18 A They harassed me.

19 Q What kind of harassment?

20 A Child Protective Service harassment.

21 Q How did they harass you?

22 A They show up, they want to see your kids, they want  
23 to see how you are living, whatever.

24 Q Okay. Well, that would have been hard to live  
25 with, wouldn't it, that kind of --

1 A Yes.

2 Q -- campaign of harassment?

3 A Yes.

4 Q And they made a recommendation to you; right?

5 A What do you mean by that?

6 Q They told you what they wanted you to do, they  
7 wanted you to help them, right?

8 A Yes, they made a bargain with me, yes.

9 Q They wanted you to help make cases against other  
10 people, didn't they?

11 A Yes, they did.

12 Q And that was, that was the deal that they offered  
13 you, you help us make cases against other people, then  
14 we can help you with leniency?

15 A Yes.

16 Q Now, you dealt with a lot of lawyers in your day,  
17 haven't you?

18 A Yes, I have.

19 Q You have been --

20 A They are all junk.

21 THE COURT: We won't take a vote on that.

22 BY MR. MURRAY:

23 Q Well, you have done a lot of plea bargaining too,  
24 haven't you?

25 A Yes, I have.

1 Q And usually when you do plea bargaining you have a  
2 lawyer; right?

3 A Yep.

4 Q And a lot of times when you go to court the Judge  
5 makes you get a lawyer, don't they?

6 A Yep.

7 Q They say don't come back without a lawyer, you have  
8 heard that before, haven't you?

9 A Yes, I have.

10 Q But this was different, because you didn't have a  
11 lawyer with you when you went into the grand jury, did  
12 you?

13 A No, I did not.

14 Q All right. And the investigators told you you  
15 didn't need a lawyer, did they -- didn't they tell you  
16 that?

17 A They told me if I wanted one, I could have one, --

18 Q Right, but they --

19 A -- it wasn't necessary.

20 Q They told you you didn't need a lawyer; right?

21 A Wasn't necessary, no.

22 Q They told you it wasn't necessary?

23 A Yes.

24 Q So they told you, you go along with us, and you  
25 don't even need a lawyer, isn't that what they told you?

1 A Yes.

2 Q Now, you do have a lawyer now; right?

3 A Yes, I do.

4 Q It's that bald headed man sitting back there in the  
5 white shirt, right?

6 A Yes, it is.

7 THE COURT: No fisticuffs.

8 BY MR. MURRAY:

9 Q Is he representing you on this investigation  
10 involving your drug trafficking of huge quantities of  
11 cocaine?

12 A No, he is not.

13 Q Is that because of other legal problems that you  
14 have. That's why he is representing me, for other legal  
15 reasons, yes.

16 Q What kind of legal reasons?

17 A Possession and sale of LSD.

18 Q Oh, and didn't you tell Mr. Doyle here that you  
19 lied to the police about the LSD --

20 A Yes, I did.

21 Q -- that you were charged with?

22 A Yes, I did.

23 Q But you are not a liar?

24 A No, I am not.

25 Q Well, you know that if the prosecutor thinks that

1 you have been a real helpful witness he might be able to  
2 help you, don't you?

3 A Ain't no prosecutor that ever helped me, no.

4 Q No prosecutor ever helped you?

5 A Nope.

6 Q Well, you were never, you were never charged, even  
7 though you admitted that you were involved in bringing  
8 large quantities of cocaine into Olean, you haven't been  
9 prosecuted?

10 A No, I haven't.

11 Q Well, who do you have to thank for that?

12 A Don't know.

13 Q God?

14 A Never been caught red-handed, I guess, is the truth  
15 for that matter.

16 Q You got caught red-handed selling LSD, didn't you?

17 A Sure did, I got set up by my best friend.

18 Q Then you just lied when you said you were never  
19 caught red-handed, didn't you?

20 A Not for cocaine trafficking, no.

21 Q When did you first start -- you say that you were a  
22 cocaine user, when did you first start using cocaine?

23 A '95, '96.

24 Q How often were you using it?

25 A In the beginning, once or twice, then after that --

1 Q Once or twice what?

2 A Once or twice when I could get it.

3 THE COURT: Once or twice -- a week or a  
4 month?

5 THE WITNESS: If I got it twice in a week then  
6 I did it, yes.

7 THE COURT: Yes.

8 BY MR. MURRAY:

9 Q Well, how often would you get it?

10 A Once or twice a week.

11 Q So you were using it once or twice a week when you  
12 started?

13 A Yes.

14 Q And then did you start using it more?

15 A Yes.

16 Q Then did you start using it every day?

17 A Then after while I could use it four or five times  
18 a week, yes.

19 Q And during the same period you were abusing  
20 alcohol; right?

21 A Yes, I was drinking at the time.

22 Q In fact, you have had six alcohol related arrests;  
23 right?

24 A Yes.

25 MR. DUSZKIEWICZ: Objection.

1 THE COURT: Sustained.

2 BY MR. MURRAY:

3 Q Because of alcohol you damaged a Mr. and Mrs.  
4 Wilber McCan's porch, didn't you?

5 A Yes, I did.

6 Q And besides the crack and the alcohol, you were  
7 also smoking marijuana during this period, right?

8 A Yes, I was.

9 Q Was it during this period you were using LSD too?

10 A No, I wasn't.

11 Q When did you start using LSD?

12 A When it came around.

13 Q When did it come around?

14 A In the summertime.

15 Q Summer of what year?

16 A '96, '97.

17 Q Do you think all of this alcohol abuse and  
18 marijuana abuse, and LSD abuse might have affected your  
19 brain?

20 A Probably.

21 Q Not a good way either?

22 A Couldn't say.

23 Q And after you were working as a confidential  
24 informant you tried to make a buy from people, isn't  
25 that a fact?



1 A Yes, I did.

2 Q How many people did you try to make buys from?

3 A Probably fifteen I would say.

4 Q And you tried to make buys from fifteen people  
5 after you were talking with the investigators and you  
6 were trying to make cases against other people; right?

7 A Yes, I did.

8 Q And when was it that you became a confidential  
9 informant?

10 A '95, '96, I guess.

11 Q And the investigators targeted you at people;  
12 right?

13 A Yes, they did.

14 Q The target was the person that you were suppose to  
15 make a buy from; right?

16 A Yes.

17 Q And they would wire you all up like a monkey on a  
18 string, wouldn't they?

19 A Sometimes, sometimes no.

20 Q sometimes they would wire you, sometimes they  
21 wouldn't?

22 A Yes.

23 Q Were you paid?

24 A Sometimes, yes.

25 Q Paid in what, cocaine?

- 1 A No.
- 2 Q Paid in money?
- 3 A Yep.
- 4 Q Paid in what you could steal?
- 5 A No.
- 6 Q Who gave you the money?
- 7 A Police gave me some money.
- 8 Q Police gave you some money?
- 9 A Yes.
- 10 Q When did they start giving you money?
- 11 A They gave it to me on two occasions.
- 12 Q When was the first time they gave you money?
- 13 A When they made -- I made a couple of buys for them,  
14 and a couple of people were convicted and arrested, I  
15 got a check for some money.
- 16 Q How much?
- 17 A I don't know, maybe seventy bucks.
- 18 Q Don't give me the maybe seventy bucks, tell me how  
19 much you were paid, sir?
- 20 A I don't know.
- 21 MR. DUSZKIEWICZ: Objection.
- 22 BY MR. MURRAY:
- 23 Q You were what?
- 24 A I don't know.
- 25 Q You don't know, you can't tell the jury how much

1 you were paid?

2 A It was like seventy bucks two, three years ago.

3 Q So it's your testimony that that was, was that your  
4 reward?

5 A I don't know.

6 Q You don't know?

7 A No.

8 Q You think it was coincidence that you got the check  
9 after somebody was convicted?

10 A No, just figured --

11 Q That is the way it works, that is what you figured,  
12 right?

13 A It's cash, yes.

14 Q You get paid to help convict people, is that what  
15 the idea is?

16 A Yes.

17 Q Okay. How much more money, you said you were paid  
18 twice?

19 A Yes.

20 Q You were only paid twice?

21 A Yes, seventy dollars.

22 Q Were only paid twice by check, or only paid twice  
23 ever by the police?

24 A Twice ever.

25 Q Twice ever, well, that first time you got the

1 check, when was that?

2 A I couldn't even tell you, don't know.

3 Q You can't tell me the date when you got that check?

4 A Don't know. It sat in the mail box for awhile, and  
5 when I got --

6 Q I guess you didn't need any money?

7 A No, I didn't at the time.

8 Q Didn't need any money?

9 A No, I was working a good job.

10 Q Over at the Castle Restaurant?

11 A No.

12 Q Where?

13 A I was working at Cooper Industries.

14 Q So you let that check set in the mail box, weren't  
15 you worried about thieves coming and ripping it off?

16 A Yeah.

17 Q I mean, a gas grill isn't even safe in Olean?

18 A Yes, probably only a few dollars, wasn't nothing to  
19 me.

20 Q You told me it was seventy dollars, didn't mean  
21 anything to you?

22 A No.

23 Q Did you cash that check yourself?

24 A No, I signed it over and gave it to my mother, I  
25 believe.

1 Q Is that to make up for property you had stolen from  
2 her?

3 A No.

4 Q Is that because you didn't want -- was the check  
5 payable to you in your name?

6 A Yes, it was.

7 Q What about the second time you say you got paid?

8 A They gave me fifty dollars in cash.

9 Q Did you sign a receipt?

10 A Nope.

11 Q No?

12 A Nope.

13 Q Kind of under the table money, huh?

14 A Just gave me the cash, yep.

15 Q What?

16 A Just gave me the cash, yes.

17 Q Who gave you the cash?

18 A Don't remember.

19 Q You don't remember who gave you cash?

20 A No, I don't.

21 Q Was it a man or a woman?

22 A It was man.

23 Q Was he white or black?

24 A I couldn't tell you, they was -- I met all along  
25 maybe fifteen different officers, couldn't tell you.

1 Q And this man, that you can't even tell us who it  
2 was or when it was, he just gave you some cash?

3 A Yes.

4 Q And that was part of your reward, wasn't it?

5 A Maybe, maybe not.

6 Q Well, that was, that was what you were getting paid  
7 that money for your -- helping the police, right?

8 A Maybe so.

9 Q Helping the prosecution, right?

10 A Maybe so.

11 Q Wasn't a gift, was it?

12 A I don't know.

13 Q I mean you weren't, it wasn't like they weren't  
14 your relative or anything giving you a gift, right?

15 A No, they weren't.

16 Q You don't think they gave it to you just because  
17 they liked your personality, do you?

18 A No, I am sure they didn't like me.

19 Q Well, this money that they gave you, did they have  
20 any agreement with you how much money you would get?

21 A No, that was never no agreement.

22 Q So it was like you just thought that the more they  
23 like you, then maybe the more likely they will give you  
24 a reward; right?

25 A Yep.

1 Q The more helpful you are in convicting somebody  
2 maybe you might get the reward; right?

3 A Yep.

4 Q The more people you convict, maybe the bigger  
5 reward you get, huh?

6 A Maybe so.

7 Q Maybe the longer somebody goes to jail then maybe  
8 the bigger the money you get?

9 A I wouldn't know, couldn't know.

10 Q Do you know Cindy and Mike Connors?

11 A I don't know.

12 Q Cindy and Michael use to live over at Alder Court,  
13 does that ring a bell?

14 A Oh, Okay. yes.

15 Q Crack smokers; right?

16 A Yes. I know them as different people.

17 Q What?

18 A I know them as different names.

19 Q What do you know them as?

20 A Roxanne and Mike.

21 Q They were smokers; right, he was a carpenter,  
22 right?

23 A He was a fix it guy, yeah.

24 Q Fix it guy, and you use to drop them off over at  
25 the Derby Hotel, didn't you?

1 A Sure did, yes.

2 Q And they use to go over there to smoke with JB,  
3 because they were pathetic crackheads just like him,  
4 isn't that the truth?

5 A Maybe so, yes.

6 Q And that is where you -- and that is how you knew  
7 where JB lived, because you use to drop some other  
8 crackheads over there to go over and smoke crack with  
9 JB; right?

10 A Maybe so, on occasion, yes.

11 Q So you wanted to -- that is how you figured you  
12 would sprinkle in a little bit of information to try to  
13 get away with your lie; right?

14 A No.

15 Q You said you went to JB's room at the hotel?

16 A I have been to his house, yes.

17 Q Describe the house?

18 A It's a big apartment building, it's got a huge  
19 porch. You got to have somebody let you in, and you got  
20 to go upstairs and his house is like third door down on  
21 the right -- left; right.

22 Q It's on the third floor?

23 A No, second -- first floor, second floor.

24 Q It's on the first floor?

25 A It was the second floor, you go upstairs, it's



1 basically the first floor if you ask me, yes.

2 Q Why did you say the third floor?

3 A I said I don't know if there is a third floor. I  
4 am saying it was like the third door down on the left  
5 was his.

6 Q So if I get this right, after something like fifty  
7 trips to traffic in drugs; right?

8 MR. DUSZKIEWICZ: I am sorry, is that a  
9 question, Judge?

10 MR. MURRAY: I'm not finished yet, I was  
11 interrupted by Mr. Duszkiwicz.

12 THE COURT: You said right, question mark.

13 MR. MURRAY: But I was on, I was rolling in.

14 THE COURT: Oh, you were rolling.

15 MR. MURRAY: It was like a semicolon.

16 THE COURT: Start this downhill roll again.

17 BY MR. MURRAY:

18 Q All right. So after you say you make something  
19 like fifty trips with large quantities of drugs, you  
20 don't even get arrested for that; right?

21 A Never been caught.

22 Q Well, did you -- and you didn't get caught, but you  
23 did it so that, you are cooperating so that you won't  
24 get caught; right?

25 A Maybe so, yes.

1 Q Well, maybe so, isn't that the truth, isn't that  
2 why you want to help the Government, to help yourself? A  
3 Yes, maybe so.

4 Q And you want to help the Government in your their  
5 efforts to convict people so that you can escape jail;  
6 right?

7 A Maybe.

8 Q Maybe. And even though, and even after you cut  
9 that kind of a deal with the investigators, you still  
10 been out there committing crimes?

11 A Yes, I did.

12 Q Stealing?

13 A No.

14 Q Lying?

15 A No.

16 Q So you will admit to being a thief, but you won't  
17 admit to being a liar?

18 A No.

19 THE COURT: No which?

20 THE WITNESS: What is that?

21 THE COURT: You said, no, you admit to being a  
22 thief --

23 THE WITNESS: I have stolen on occasion, but I  
24 am not --

25 THE COURT: And, I gather, you do not admit to

1 being a liar?

2 THE WITNESS: I am not a liar, I am not lying,  
3 no.

4 THE COURT: All right. Just wanted to  
5 straighten it out for the jury.

6 BY MR. MURRAY:

7 Q And you think that if you keep your part of that  
8 bargain then the Government will keep their part of the  
9 bargain, and the hammer won't ever drop on you; right?

10 A I can't say for sure, no.

11 Q And you -- but that is what you are hoping for,  
12 isn't it?

13 A No, I can't say that either, no.

14 Q Well, you don't want them to drop the hammer on you  
15 now; right?

16 A If I go to jail, then I will end up in jail, yes.

17 Q You wouldn't like that, would you?

18 A No, but --

19 Q So you want them to keep up their part of the  
20 bargain; right?

21 A If they want to, yes.

22 Q And you want to try to keep up your part of the  
23 bargain so that they will keep up their part of the  
24 bargain; right?

25 A No, I wasn't hoping to come back here again, no.

1 Q No, my point is you want them to think that you  
2 kept your part of the bargain, so that they will keep  
3 their part of the bargain and not drop the hammer on  
4 you, isn't that true?

5 A Yes.

6 Q And didn't you tell us your part of the bargain was  
7 to try to help the Government convict people?

8 A Yes, it was.

9 MR. MURRAY: Thank you. No further questions,  
10 Judge.

11 THE COURT: Mr. Duszkiewicz.

12 THE COURT: Oh, you have some, Mr. Jay, sorry.  
13 I thought you indicated no, but go ahead.

14 CROSS-EXAMINATION:

15 BY MR. JAY:

16 Q When did you first learn you were going to be here  
17 testifying today?

18 A They sent me a paper saying I was suppose to be  
19 here November 27, but do not show up on that date.

20 Q And it got changed?

21 A They will call me and let me know.

22 Q All right. And did this come by mail to you?

23 A No, they delivered it.

24 Q Did somebody deliver it?

25 A They delivered it in person.