



## SENTENCING PROCEEDINGS

1           You decide what you want her to say or not say. The  
2 government can tell me what's going to happen to the money that  
3 the Secret Service has already seized.

4           There apparently is an issue as to whether -- from what  
5 I've seen in correspondence between the defendant and probation  
6 and maybe your office, regarding whether or not any credit is  
7 to be given toward the restitution for that car -- the two  
8 vehicles and the 18,000, okay, and I want that resolved too.

9           And then if it means -- I've had sentencing hearings that  
10 lasted a week. If we have to have another hearing all day and  
11 have people cross-examine, it's fine with me.

12           Let's take a break, Marshal. We'll just let things calm  
13 down a minute.

14                           *(Recess taken.)*

15           **THE COURT:** Be seated.

16           We'll let you continue.

17           **MS. FARIA:** Your Honor, at this time the defense  
18 would move to continue this sentencing. One of the issues that  
19 the Court has raised, which we think would be helpful, would be  
20 the accounting that the Court is requesting. So at this time  
21 we would move to have the opportunity to do that.

22           **MR. BOURGEOIS:** Your Honor, if I can just briefly, I  
23 don't oppose the continuance and for the reasons that the Court  
24 has already stated.

25           There are two issues in particular I would just like to

## SENTENCING PROCEEDINGS

1 address today so we know, so we're better prepared when we come  
2 back for the sentencing. The first is the state proceedings.

3 I haven't spoken with the assistant district attorney over  
4 there. I understand from a member of the sheriff's office  
5 that's here, they are waiting to see what happens in federal  
6 court, which is not rare. That's probably ninety-something  
7 percent of the time we have parallel proceedings, the position  
8 of the DA's office is informed by what ultimately happens here  
9 in federal court.

10 What I would like to make the Court aware of as well is  
11 that the pending charges are four different instances, not just  
12 the one that's the subject of that we're here for today. And  
13 they are also looking at what is contained in the Presentence  
14 Report -- but not in the calculations -- I think 19 separate  
15 arrests that were resulted in dismissed charges or nolle  
16 proded. So I don't think it's apples and apples on what they  
17 decide to do in state court and what ultimately your Honor  
18 decides to do squarely on the charges that are here with  
19 Ms. Thompson.

20 The second issue, though, is the restitution as it relates  
21 to the property that was administratively forfeited to the  
22 Secret Service. I think the position of Ms. Faria has been  
23 that the defendant should get credit for that amount, whatever  
24 that value is. And that was the communication I had with  
25 Ms. Faria was about the number itself.

## SENTENCING PROCEEDINGS

1 I agree the number, I think fifty-something thousand  
2 dollars, is the number that the Secret Service used in the  
3 administrative proceeding when they gave notice to  
4 Ms. Thompson, to Capital One, and to the other victims as part  
5 of that administrative forfeiture. So I don't challenge the  
6 number or the value there. But I think where we're going to  
7 run into a little bit of an issue, that forfeiture proceeding  
8 is over and done with as early as I believe January of this  
9 year. It's not something that the U.S. Attorney's office was a  
10 party to. The Secret Service followed the guidelines that they  
11 have to. They gave their notice. Notice was obviously  
12 received by the defendant, because Ms. Faria forwarded me a  
13 copy of the letter she received.

14 The Plea Agreement contains a paragraph that the defendant  
15 won't contest the forfeiture of that property. And Capital One  
16 did not file a petition to contest that. As I believe the law  
17 stands, and the reason I bring it up today is, is it something  
18 your Honor wants us to brief or address with the Court is  
19 whether, under the Mandatory Victim Restitution Act, the  
20 district court in a criminal proceeding can offset an  
21 administratively forfeited amount to the restitution?

22 From the research I've done -- I've spoken with our  
23 counterparts in DC, as well as the Secret Service's  
24 counterparts and their legal counsel office and our civil  
25 department -- and from everything I've seen, it can't happen.

## SENTENCING PROCEEDINGS

1 We do not have a mechanism under the law, under the Mandatory  
2 Victim Restitution Act, to credit that amount because the money  
3 that's been seized once the forfeiture proceeding is over is  
4 part of a Treasury Enforcement Fund. It's, for lack of a  
5 better word, it's gone.

6 I could not, particularly with the Secret Service not a  
7 DOJ counterpart -- they are in the Homeland Security  
8 Department -- I couldn't get it. But what Secret Service is  
9 telling me in DC is they really don't have a mechanism to go  
10 retrieve property that's already been forfeited.

11 So does it put us in a position where Ms. Thompson is  
12 facing a full restitution order of the two hundred and -- about  
13 a quarter of a million dollars, while fifty thousand or so has  
14 been forfeited already? And I think that, under the law, that  
15 is the position that we may find ourselves in.

16 **THE COURT:** Well, one of the issues is whether or not  
17 that fifty thousand was part of the crime that she pled guilty  
18 to here.

19 **MR. BOURGEOIS:** I think that's very clear.

20 **MS. FARIA:** That's very clear that it was.

21 **THE COURT:** Okay. That's the first issue that the  
22 Court has to get involved with. Okay.

23 And whether or not the 50,000 or so was already, either  
24 whether it was included as part of the 240 or not included as  
25 part of the 240, because the amount -- as everybody knows, the

## SENTENCING PROCEEDINGS

1 amount involved here determines how many points you get in  
2 determining what the offense level is.. Okay? So she's in a  
3 bracket, I think, of 200 to 400,000, I think.

4 MS. FARIA: That's correct.

5 THE COURT: All right. From what the victim said  
6 here a few minutes ago, he believes that over \$400,000 was  
7 taken out of his business. Because of considering these crimes  
8 and the crimes that she's charged with in state court, under  
9 the *Hughey* decision of the United States Supreme Court, in  
10 determining what the restitution is, I'm limited by the amount  
11 taken directly as a result of what was part of these crimes.  
12 All right?

13 The thing that has bothered me -- among other things in  
14 this case -- but the thing that has bothered me is, for  
15 example, there are other things that make up restitution for a  
16 victim. For example, if this was a bank robbery, and let's say  
17 the teller was wounded, the bills of the teller could be part  
18 of the restitution that's directly involved.

19 In this case we have something not -- pretty close but,  
20 for example, medical insurance was not paid and the money was  
21 taken. Now, I don't know if that transaction is part of this  
22 or part of what's happening in state court. But if it's part  
23 of this, and then if you read the Presentence Report and you  
24 say, "Well, I lost -- I had to pay to get some dental work done  
25 or medical expenses, and now I can't buy any more insurance,"

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript from the record of proceedings in the above matter.

Date: August 24, 2007

*Estella O Champion*

ESTELLA O. CHAMPION, CCR, CRR



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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA	:	
PLAINTIFF	:	CRIMINAL ACTION NO.
VS.	:	06-217-FJP-SCR
	:	JANUARY 25, 2007
BRANDI R. THOMPSON	:	
DEFENDANT	:	9:45 A.M.

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TRANSCRIPT OF PLEA HEARING  
BEFORE THE HONORABLE FRANK J. POLOZOLA  
UNITED STATES DISTRICT JUDGE

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A P P E A R A N C E S:

FOR THE UNITED STATES OF AMERICA:

RICHARD B. LAUNEY, ESQUIRE  
UNITED STATES ATTORNEY'S OFFICE  
MIDDLE DISTRICT OF LOUISIANA  
777 FLORIDA STREET, SUITE 208  
BATON ROUGE, LA 70801

FOR THE DEFENDANT BRANDI R. THOMPSON:

JEAN M. FARIA, ESQUIRE  
FEDERAL PUBLIC DEFENDERS OFFICE  
FOR MIDDLE AND WESTERN DISTRICTS  
707 FLORIDA STREET, SUITE 303  
BATON ROUGE, LOUISIANA 70801

REPORTED BY: ESTELLA O. CHAMPION, CRR, RDR.

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UNITED STATES COURTHOUSE  
777 FLORIDA STREET  
BATON ROUGE, LOUISIANA 70801  
(225) 389-3565

BRANDI THOMPSON/THE COURT

1 aside sentences. You can file such a motion, but only on one  
2 ground, and that is that you did not receive the effective  
3 assistance of counsel. Do you understand that?

4 A. Yes, sir.

5 Q. Paragraph 5 we've already gone over. Those are what the  
6 maximum sentence is. Do you have any questions about the  
7 maximums?

8 A. No, sir.

9 Q. Paragraph 6 is something that is local and applies only to  
10 this case. "Brandi Thompson will not contest any  
11 administrative forfeiture action that the United States Secret  
12 Service has commenced in this matter."

13 So that means, if Secret Service has filed some type of  
14 administrative actions to get back money or to seize property  
15 or what have you, then you can't challenge or contest that. Do  
16 you understand that?

17 A. Yes, sir.

18 Q. All right. Then paragraph 7, this is a paragraph that's  
19 favorable to you. If I as the judge believe that you have  
20 accepted responsibility, then I am allowed, under the  
21 guidelines, to give you a reduction of two offense levels for  
22 acceptance of responsibility. The government has agreed that  
23 if I find acceptance of responsibility, and I'm willing to give  
24 you a two-level reduction, and your offense level is 16 or  
25 better, or greater, then the government has authorized me to

1 could get \$5000 worth of credit. So all those were cumulative,  
2 and that's not actually how much money that was taken out. The  
3 figures that she actually took from the banks and used from the  
4 credit card, as best as we're able to determine, is contained  
5 in the factual stipulation. So I think as we go through, it's  
6 going to be a little bit clearer.

7       **THE COURT:** And one of the things, as everybody knows -- I  
8 like to kind of tell people in these kind of cases, because  
9 sometimes it helps and sometimes it doesn't -- if the money is  
10 gone, for example, for medical expenses for a sick baby, and  
11 the money is gone, I look at it one way. If the money is gone  
12 to gamble or buy drugs or just live a lifestyle that you can't  
13 afford, then I'll look at it another way. And that's the only  
14 way -- that's the way you have to look at these.

15       **MR. LAUNEY:** Yes, sir.

16       **THE COURT:** I'm not saying stealing from the bank because  
17 your baby needed surgery is right, but there are different  
18 circumstances for doing things.

19       **MR. LAUNEY:** Yes, sir.

20       **THE COURT:** Okay. The defendant is remanded to the  
21 marshals.

22       **MR. LAUNEY:** Thank you, your Honor.

23       **THE COURT:** You're welcome.

24               *(The defendant exits the courtroom at this time.)*

25       **THE COURT:** What's the Secret Service going to do, or are

1 they doing?

2 MR. LAUNEY: Regarding?

3 MS. FARIA: There was a car, Judge.

4 MR. LAUNEY: The forfeiture? Yes, a car that was related  
5 to this offense was seized.

6 UNIDENTIFIED OFFICER: It was an '06 Acura TL, sir, a  
7 Honda Four-Wheeler, 2006, and an \$18,000 cashier's check.

8 THE COURT: Okay.

9 MS. FARIA: That's been forfeited, or it's in the process.

10 THE COURT: Process of being forfeited?

11 UNIDENTIFIED OFFICER: Yes, sir.

12 THE COURT: So we don't have --

13 MR. LAUNEY: And the victim has been actually notified and  
14 it was all done administratively, and that's where we are in  
15 the process.

16 MS. FARIA: We didn't contest.

17 THE COURT: Okay. So one of the things that we're going  
18 to have to do here -- and your office, the government's office  
19 is good at doing this -- is if there are individual victims out  
20 there, as compared to just the company, we've got to get a  
21 note. You know, those people now have a right to be here.

22 MR. LAUNEY: Yes, sir.

23 My understanding, I just wanted to confirm, is that all  
24 along has been that we have two financial institutions which  
25 are victims in this case. There is no individuals. The

CASE NUMBER: 3:06CR00217-001  
DEFENDANT: BRANDI R. THOMPSON

### CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 200.00	\$	\$ 236,164.18

The determination of restitution is deferred until \_\_. An Amended Judgment in a Criminal Case (AO245C) will be entered after such determination.

The defendant shall make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order of percentage payment column below. However, pursuant to 18 U.S.C. §3664(i), all non-federal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>**Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or % of Pymnt</u>
Jordan Traditions, LLC 11843 Market Place Baton Rouge, LA 70816	\$8,581.23	\$8,581.23	
Capital One Fraud Investigations P.O. Box 85582 Richmond, VA 23238 Ref: 5178052555297650	\$220,796.13	\$220,796.13	
Capital One Fraud Investigations P.O. Box 85582 Richmond, VA 23238 Ref: 4791242311144946	\$6,786.82	\$6,786.82	
<b>TOTALS:</b>	<b>\$ 236,164.18</b>	<b>\$ 236,164.18</b>	

If applicable, restitution amount ordered pursuant to plea agreement ..... \$ \_\_\_\_

### FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$ \_\_.

The determination of restitution is deferred in a case brought under Chapters 109A, 100, 110A and 113A of Title 18 for offenses committed on or after 09/13/1994, until up to 60 days. An amended Judgment in a Criminal Case will be entered after such determination.

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

The interest requirement for the fine is waived.

The interest requirement for the fine is modified as follows:

\*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.



U.S. Department of Homeland Security  
UNITED STATES SECRET SERVICE

RECEIVED

December 07, 2006

DEC 11 2006

F.P.D.  
BATON ROUGE

Brandi Thompson  
C/o Jean Faria  
707 Florida Street  
Suite #303  
Baton Rouge, LA 70801

RE: Seizure of Property

Agency Case Number : 338-770-5551-S  
Seizure Number : 338-2007-001  
Asset Identification : See Attached List

Dear Ms. Thompson:

On 10/24/2006 at Denham Springs, LA, the properties described above were seized by the United States Secret Service (USSS) for forfeiture from Brandi Thompson. The properties were used in or acquired in violation of Title 18 USC 1029 and are subject to forfeiture pursuant to 18 USC 981.

You may contest the seizure and forfeiture of the property in United States District Court by filing a Claim or you may agree to the forfeiture of the property and petition the U.S. Secret Service for return of the property or your interest in the property through the administrative process by filing a Petition for Remission or Mitigation.

### **To Contest the Forfeiture**

If you disagree with the Secret Service's claim that the property is subject to forfeiture and want the case tried in U.S. District Court, you must file a Claim of Ownership with the U.S. Secret Service by January 11, 2007.

The Claim of Ownership must:

1. Identify specific property claimed;
2. State the claimant's interest in the property;
3. Provide documentary evidence of the claimant's interest, if available;
4. State that the claim is not frivolous; and
5. Be signed and made under oath subject to penalty of perjury.



3. A petitioner who cannot establish a property interest in the property, may obtain remission or mitigation of the forfeiture if the petition established that:
  - a. the petitioner is a victim of the offense giving rise to the forfeiture action;
  - b. the petitioner had no knowledge of or was not willfully blind to the violation giving rise to the forfeiture action; and
  - c. the petitioner did all that reasonably could be expected under the circumstances to prevent the activity giving rise to the forfeiture or the illegal use of the property.

The petition should be filed within thirty-five (35) days of the date of this letter.

### **Release of Property to Avoid Substantial Hardship**

If you chose to contest the forfeiture and file a Claim of Ownership as set forth above, you may be entitled to immediate release of the seized property if:

1. You have a possessory interest in the property;
2. You have sufficient ties to the community to provide assurance that the property will be available at the time of the trial;
3. You show that the continued possession by the Government pending the final disposition of forfeiture proceedings will cause you substantial hardship;
4. You show that your likely hardship from the continued possession by the Government of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to you during the pendency of the proceedings;
5. The property is not contraband, evidence of a violation of a law, currency, or other monetary instrument, or electronic funds unless such currency or other monetary instrument or electronic funds constitutes the assets of a legitimate business that has been seized;
6. The property is not, by reason of design or other characteristic, particularly suited for use in illegal activities;
7. The property is not likely to be used to commit additional criminal acts if returned to you.

A claimant seeking release of property must file a request for Possession of the Property with the Deputy Assistant Director, Office of Investigations, United States Secret Service at the address indicated below. A request for Possession of the Property must set forth the basis on which the requirements listed above are met.

If not later than fifteen days after receipt of a request for Possession of the Property by the United States Secret Service, the property is not released; the claimant may file a petition for release of the property in the district court in which the seizure warrant was issued or in the district court for the district in which the property was seized.

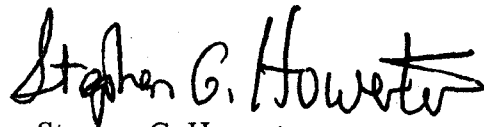
Please ensure that any correspondence regarding this matter references the Seizure Number provided above.

All documents should be submitted to the following address via FEDEX, DHL, UPS, Airborne, etc.

United States Secret Service  
Communications Center – CID/AFS  
245 Murray Drive, S.W.  
Building #410  
Washington, DC 20223

If you have any questions regarding this matter, please contact the Asset Forfeiture Section at (202) 406-5327 by January 11, 2007.

Sincerely,

A handwritten signature in black ink that reads "Stephen G. Howerter". The signature is written in a cursive style with a large, prominent "S" at the beginning.

Stephen G. Howerter  
Assistant to the Special Agent In Charge  
Criminal Investigative Division

Approved by:  
Craig D. Magaw  
Special Agent in Charge  
Criminal Investigative Division

Attachments

December 7, 2006

ASSET LIST FOR Seizure Notice

Agency Case Number : 338-770-5551-S  
Seizure Number : 338-2007-001

Asset ID	ASSET DESCRIPTION	ASSET VALUE
338-2007-001-0001-01	Livingston Parish Federal Credit Union Cashier's Check Made Payable to Jerrold Hewitt	\$18,000.00
338-2007-001-0002-01	2006 Acura TL, VIN #19UUA66236A047814	\$28,600.00
338-2007-001-0003-01	2006 Honda TRX400FA, VIN #1HFTE290864205960	\$6,099.00