

July 7, 2000

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U.S. CERTIFIED MAIL NO. 7099-3220-0003-7350-0943 - RETURN RECEIPT REQUESTED

RE: LAMBROS vs. FAULKNER, et al.
COUNT ONE (1) MAXIMUM SENTENCE FOR MARIJUANA IS FIVE (5) YEARS
SEE, U.S. vs. DALE, 178 F.3d 429 (6th Cir. 1999)

Dear Mr. Stenmoe:

As you know, the CONSPIRACY within my indictment included the alleged distribution and/or possession of **MARIJUANA**. Although not stated within my indictment, evidence presented at trial and GRAND JURY testimony offers proof of same. The CONSPIRACY count is count one (1) within my indictment.

U.S. vs. DALE, 178 F.3d 429 (6th Cir. 1999):

In DALE, as in the EIGHTH CIRCUIT, the District Court committed plain error in imposing maximum sentence for conspiracy to distribute crack cocaine, rather than imposing maximum sentence for conspiracy to distribute marijuana, where jury was given enhanced unanimity instructions but returned only a GENERAL VERDICT FORM. This case offers references to EIGHTH CIRCUIT cases needed for this argument.

CONSPIRACY:

Conspiracy is itself the crime. See, DALE, at 431. A single conspiracy may have as its objective the distribution of two different drugs without rendering it duplicitous. See, DALE, at 431.

Seven of the eighth circuits that have directly considered this issue have decided that the punishment imposed [in distribution of Marijuana & cocaine] CANNOT exceed the SHORTEST maximum penalty authorized in the statutes criminalizing the multiple objects [marijuana/cocaine] if the punishment authorized by the CONSPIRACY statute depends on the punishment provided for the substantive offenses which were the objects of the CONSPIRACY. See, DALE, at 432. [Eighth Circuit included]

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Lambros' letter to Attorney Stenmoe

RE: **LAMBROS vs. FAULKNER, et al. - COUNT 1 - MARIJUANA/COCAINE SENTENCING STATUTE**

This is the case in both DALE and LAMBROS. The maximum sentence for conspiracy to distribute a **CONTROLLED SUBSTANCE** depends on the **CONTROLLED SUBSTANCE TO BE DISTRIBUTED**. Title 21 U.S.C. § 846. LAMBROS' and DALE's facts are the same, thus the maximum sentence for a conspiracy to distribute **MARIJUANA** is **FIVE (5) YEARS**, Title 21 U.S.C. § 841(b)(1)(D).

EVIDENCE PRESENTED TO THE JURY DURING LAMBROS' TRIAL WHICH SUPPORTS THE ALLEGED POSSESSION AND/OR POSSIBLE DISTRIBUTION OF MARIJUANA:

TRIAL AND GRAND JURY TRANSCRIPT EVIDENCE AS TO MARIJUANA:


1. GRAND JURY TESTIMONY OF JOHN J. BOULGER, DEA AGENT: May 17, 1989, at 11:51 a.m., page 33, lines 20 thru 22;
2. Testimony of Larry Pebbles during trial: Volume I, pages 140, 141;
3. SENTENCING TRANSCRIPT: Lambros stating to court at sentencing that he purchased marijuana from Larry Pebbles and Lambros requesting to have PEBBLES subpoenaed to state same again at the sentencing court so he could be sentenced for marijuana. SENTENCING TRANSCRIPT pages 22, 27; (Please note that FAULKNER would not offer the argument and refused to subpoena PEBBLES.)
4. Testimony of JOHN J. BOULGER, DEA Agent: Volume III, page 516, lines 23 thru 25;
5. Testimony of JOHN J. BOULGER, DEA Agent: Volume IV, pages 529, lines 15 thru 18; page 532, lines 23 thru 25; page 533, lines 3 thru 9; page 557, lines 1 thru 7; (Remind us which drugs were involved in those discussions. Two drugs, **MARIJUANA AND COCAINE**)
6. Testimony of JOHN GREGORY LAMBROS: Volume VI, page 755, lines 3 thru 20; (I admit to the purchase of MARIJUANA); page 758, lines 18 & 19; page 761, lines 4 thru 20; page 766, lines 16 thru 19; page 769, lines 11 & 12; page 771, lines 4 thru 6, 13 thru 14; page 794, lines 8 & 9, lines 12 thru 25; page 803, lines 19 thru 23; page 804, lines 23 thru 25; page 805, lines 1 thru 5;
7. Testimony of JOHN GREGORY LAMBROS: Volume VII, page 844, lines 1 thru 11;
8. Testimony of JOHN J. BOULGER: Volume VII, page 856 & 857. Boulger lies on the stand as to PEBBLES never stating that he sold marijuana to Lambros. Page 862, Boulger admits that PEBBLES is involved in the MARIJUANA business. Page 863, Boulger admits other marijuana deals that PEBBLES was involved in during the CONSPIRACY. Page 864, Boulger again admits MARIJUANA during the investigation and/or CONSPIRACY. Page 867, lines 11 thru 16.

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9. FINAL ARGUMENT OF U.S. ASSISTANT ATTORNEY DOUGLAS PETERSON: VOLUME VII, page 886, lines 15 thru 17, "[He's dealing cocaine to John Lambros. **EVEN ACCEPT LAMBROS' TESTIMONY THAT HE'S DEALING MARIJUANA.** He has a drug relationship with John Lambros]". 

10. REBUTTAL BY U.S. ATTORNEY PETERSON: VOLUME VII, page 910, lines 8 thru 10; lines 20 & 21; page 911, lines 5 thru 24; page 922, lines 19 & 20;

11. JURY INSTRUCTIONS BY JUDGE MURPHY: VOLUME VII, starts on page 924.

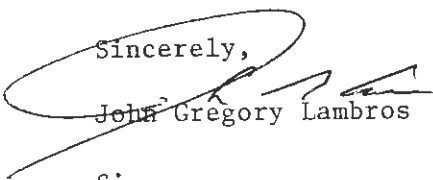
GENERAL VERDICT FORM was requested by Judge Murphy in my trial as to Count One (1) the Conspiracy Count. Therefore, the above references to pages within my transcripts, that you have copy of, proves that I could only of been sentenced under **MARIJUANA, Title 21 U.S.C. § 841(b)(1)(D), A MAXIMUM OF FIVE YEARS INCARCERATION ON COUNT ONE.**

Hopefully the above argument will assist you and your research staff as to the negligence by Attorney Faulkner. You may even want to add this letter to your response to Attorney Faulkner's request for SUMMARY JUDGEMENT.

I have attached a copy of U.S. vs. DALE, 178 F.3d 429 (6th Cir. 1999) for your review.

Thanking you in advance for your continued assistance.

Sincerely,


John Gregory Lambros

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