

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA)
)
 vs.) **PRESENTENCE INVESTIGATION REPORT**
)
 MADE A MISTAKE) **DOCKET NO. 18-CR-3476-01**

Prepared for: The Honorable Daphne Schneider
Chief United States District Judge

Prepared by: James Taylor
United States Probation Officer
555-555-1234

Assistant U.S. Attorney
Stephen Perry, Esq
Federal Courthouse, Room 234
Los Angeles, California 23400

Defense Counsel (Retained)
Elias Brinkman, Esq
1313 Mockingbird Lane
Los Angeles, California 23400

Sentence Date: January 31, 2019

Offense: 21 U.S.C. §§ 841(a)(1) & 841(b)(1)(B), Distribution of Cocaine, a
Class B Felony.

21 U.S.C. §§ 841(a)(1) & 841(b)(1)(B), Distribution of Heroin, a
Class B Felony.

Arrest Date: June 2, 2018.

Release Status: Remanded on June 3, 2018

Detainers: None.

Other Defendants: None.

Date Report Prepared: December 20, 2018

Identifying Data

Date of Birth:	January 10, 2000
Age:	18
Race:	Black, Non-Hispanic
Gender:	Male
Social Security No:	102-54-9244
FBI #:	8874324F07
USM #:	28764-038
PACTS #:	2332323
Education:	High School Equivalency Diploma
Dependents:	None
Citizenship:	United States
Legal Address:	Homeless
Other defendants:	None

PART A. THE OFFENSE**Charge and Conviction**

1. On December 1, 2019, the defendant, MADE A'MISTAKE, pled guilty before Magistrate Judge I.M. Hipp to Count 1 of a three-count indictment. Count One charges that on July 18, 2018, the defendant possessed, with intent to distribute, more than 5 kilograms of cocaine in violation of 21 U.S.C. §§ 841(a)(1) & 841(b)(1)(B). The remaining counts of the indictment remain pending.

The Offense Conduct

2. In the spring of 2018, confidential informants advised agents of the Drug Enforcement

Agency (DEA) that MADE A'MISTAKE was selling large amounts of cocaine to street gangs in Los Angeles. A record check indicated that MADE A'MISTAKE was, at one time, considered a member of the East 19th Boys gang and he was currently on state parole for a weapons violation.

3. California State Parole officials advised DEA that they had secured MADE A'MISTAKE employment as a maintenance technician at American Airlines. He was working fulltime at Los Angeles International Airport helping make repairs to the interiors of planes.
4. With the cooperation of airline officials and the Department of Homeland Security (DHS), surveillance of MADE A'MISTAKE was established at the airport. In the repair hanger, MADE A'MISTAKE was seeing entering a plane he had not been assigned to work on. Inside the craft, MADE A'MISTAKE was seen removing the mirror from the lavatory wall.
5. MADE A'MISTAKE was seen exiting the plane with a large bag that he did not have previously. He was stopped for questioning by DEA and DHS agents but MADE A'MISTAKE dropped the bag, which was later found to contain 5.2 kilograms of 90 percent pure cocaine, and began to run. As he ran, he was seen tossing aside what appeared to be a gun. In fact, when recovered, it was found to be a loaded 9-millimeter semi-automatic handgun.
6. MADE A'MISTAKE was apprehended after an estimated 10-minute chase. It ended in the employee parking lot outside the repair hanger. He declined to make any statements to arresting agents, put did apologize for making them run.

Adjustment for Obstruction of Justice

7. The probation officer has no information to suggest that the defendant impeded or obstructed justice.

Adjustment for Acceptance of Responsibility

8. The defendant pled guilty, and per counsel's advice, chose to make no statement relative to his involvement in the instant offense during the presentence interview.

Offense Level Computation

9. Base Offense Level: The guideline for an 18 USC 371 offense is 2X1.1(a), which directs that the base offense level be derived from the guideline for the substantive offense, plus

any adjustments from such guideline for any intended offense conduct that can be established with reasonable certainty. The substantive offense is a violation of 18 USC 1341, and the corresponding guideline is 2F1.1; Application Note 13 of that guideline instructs that where “the indictment or information setting forth the count of conviction . . . establishes an offense more aptly covered by another guideline, apply that guideline rather than 2F1.1.” In this case, the indictment establishes that the mail fraud was in furtherance of a bribery scheme, which is more aptly covered by Guideline 2B4.1(a), which provides a base offense level of 8.

8

- | | | |
|-----|--|------------------|
| 10. | Specific Offense Characteristics: Since the value of the bribe for this offense exceeds \$5,000, the offense level is increased by 2 levels per Guidelines 2B4.1(b)(1) and 2F1.1(b)(1)(C). | <u>2</u> |
| 11. | Adjustment for Role in the Offense: Since the defendant used a special skill in a manner that significantly facilitated the commission of the instant offense, the offense level is increased by 2, per Guideline 3B1.3. | <u>2</u> |
| 12. | Victim Related Adjustment: None. | <u>0</u> |
| 13. | Adjustment for Obstruction of Justice: None. | <u>0</u> |
| 14. | Adjusted Offense Level (Subtotal): | <u>12</u> |
| 15. | Adjustment for Acceptance of Responsibility: The defendant pleaded guilty, and per Guideline 3E1.1(a), the offense level is decreased by 2 levels. | <u>-2</u> |
| 16. | <u>Total Offense Level:</u> | <u>10</u> |

PART B. THE DEFENDANT’S CRIMINAL HISTORY

Convictions/Adjudications

Date of

Guide

Arrest

**Offense/Court
Points**

**lines/
Disposition**

01/26/02
4A1.1(a)

Burglary: Illegal Entry

12/13/02

(Age 44)	Dwelling(Class C Felony)/ 2 to 4 Years	4A1.2(e)(1)
	Burglary 2 nd	Custody
	(Class C Felony)/	(Concurrent)
	Supreme Court,	<u>10/01/04</u>
	Brooklyn, New York	Paroled
	<u>12/13/06</u>	
	Discharged	<u>3</u>

A prior presentence report reflects that on January 22, 2002, at 740 Empire Boulevard, Brooklyn, at 12:00 noon, the defendant and Derrick Evans broke down the door to Apartment 1R. The defendant and Evans stole over \$500 worth jewelry, watches, clothing, and a television from the complainant, Hilda Cowherd. Ms. Cowherd was not home during the burglary. The defendants were arrested on January 26, 2002, after being positively identified by Ms. Cowherd; however, no property was ever recovered.

A prior presentence report indicates that on December 28, 2001, at Crown Street, Brooklyn, New York, the defendant and Derrick Evans stole \$1,500 worth of property from the apartment of 65-year-old complainant, Elvie Honer. Ms. Honer was not home during the burglary. Among the things stolen by the defendants, included: a mink stole; jewelry; a typewriter; a television; a clock radio; and a 12-gauge shotgun. None of the above items was ever recovered. (See below for the defendant's adjustment to parole supervision.)

Criminal History Computation

17. The above-noted criminal sentences result in a subtotal of 3 criminal history points. According to the Sentencing Table (Chapter 5, Part A), his criminal history category is II.

PART C. OFFENDER CHARACTERISTICS

Mental and Emotional Health

18. As reported by the defendant and corroborated by his wife, he has never suffered from any mental or emotional health problems, nor has he ever sought treatment for such problems.

Physical Condition

19. The defendant reported that he recently had a cancerous tumor removed from his

throat. Records provided by the defendant reflect that he underwent a partial thyroidectomy on November 3, 2004, at Beth Israel Hospital, Manhattan. Although the surgery was successful, the defendant complained of pain in his legs and loss of strength in his arms as a result. The defendant, who noticeably limps and requires a cane, advised that he has had trouble walking since the operation. The defendant also reported that he was diagnosed with asbestosis. Records the defendant provided from his doctor, Stephen L. Newman, indicate that there is "unequivocal evidence" that the defendant has asbestos induced pleural disease. Dr. Newman further advises that the disease may cause greater disability and may be associated with cancer of the lung, cancer of the gastrointestinal tract and mesothelioma.

20. The defendant is prescribed Albuterol, which he takes three times per day to alleviate his asthma, which he stated is related to his asbestosis. The defendant is also currently taking medication for high blood pressure and arthritis; however, he was unable to recall the name of the medication, or provide the same to the Probation Department at the time of this submission. The defendant's wife and son corroborated the preceding information. His son indicated that his father is in "pretty bad shape." He explained that his father has lung problems and is taking numerous medications. His son added that the defendant needs the assistance of "a cane to get around" and there is little he can do without assistance.

Substance Abuse

21. The defendant reported that he has used various illicit substances, including marijuana and cocaine, however, he did not disclose the details of his use, save that he experimented with many illegal drugs in his youth. He added, however, that he has never been addicted, nor has he ever sought treatment. He added that excepting marijuana, which he reported using just prior to his arrest in this case, he has not used any illicit drugs in several years. The defendant explained that he does not drink alcohol, because he dislikes the taste. The defendant's wife would only speak to the time that she has known the defendant. She related that she is unaware of any illegal drug use by the defendant, adding that he is very concerned about his health and she could not imagine him using drugs. She corroborated his aversion to alcohol.

A prior presentence report prepared in 2002, reflects that the defendant admitted to initially using marijuana in the seventh grade and using it regularly thereafter. He further admitted to using mescaline, angel dust and "just about everything except dope." The report further indicates that the defendant used one drug or another on almost a daily basis during this period, but he normally became high on weekends.

Education and Vocational Skills

22. It is noted that the defendant's spouse and his son corroborated the following information.
23. As verified by the New York State Bar Association, in March 1981, the defendant passed the New York State bar exam and became a licensed attorney. The defendant explained that he has advised the Bar Association of his criminal conviction. Formal proceedings will not be initiated until a sentence is imposed in this case; however, given that the instant conviction is a felony, it appears the defendant will be disbarred. He advised that he is the process of transferring his clients, and will be shortly tendering his resignation.
24. As reported by the defendant, and verified by school records, from September 1976 to June 1980, the defendant attended St. John's University Law School in Jamaica, New York, and was awarded a LL.B. degree on June 12, 1980, which was converted to a Juris Doctor degree on June 9, 1988. The defendant also submitted a copy of his Juris Doctor diploma which verifies the same.
25. As verified by school records, the defendant attended St. John's University Graduate School in Jamaica, New York, in pursuit of a Masters of Business Administration (MBA) degree. Records reflect that the defendant was matriculated as a part time student from 1981 to 1988, and that he garnered 29 credits. The defendant advised that he had accrued enough credits to earn a degree; however, he never completed his thesis, and as such, never received his MBA. The defendant also indicated that he was a member Omigron Delta Epsilon (a Graduate Economics Honor Society at St. John's) during this period.
26. As reported by the defendant, and verified by school records, from September 1972 to June 1974, the defendant attended Seton Hall University, South Orange, New Jersey, and received a Bachelor of Arts degree in Political Science. The defendant provided a copy of his degree which verifies the same.
27. As reported by the defendant, from 1966 to 1970, he attended the 9th through 12th grades at he attended McBurney Preparatory School, in New York City, New York, and received a high school diploma in June 1970.

Employment Record

28. It is noted that the defendant's wife corroborated the employment history data contained in this section.
29. **1990 to Present:** The defendant has been employed as a private attorney practicing in the field of personal injury. The defendant is the sole proprietor of the law firm of Attorney, Attorney and More Attorney, Fifth Avenue, New York, New York. Westlaw records

verify the defendant's ownership of this business. It is also noted that the instant offense involved the defendant utilizing his law practice to participate in the instant offense. The defendant informed that prior to the instant offense, he had a small, yet successful practice; he employed twelve employees (including attorneys, secretaries, filing clerks, etc.). On a business financial form provided by the defendant, he listed a total of \$445,935, in wages to employees of the law firm. As verified by his income tax returns, the defendant earned between \$50,000 to \$170,000 per year during this period.

30. The firm, a converted one-family dwelling, is owned free and clear by defendant. The business is located in a middle to upper-middle income neighborhood, which is a mixed residential-commercial area of New York, New York. The firm has seven offices, a fully stocked law library, a kitchen, a bathroom, and an upstairs apartment (where the defendant's son, Matthew, lives). Additionally, the firm has eight computers, one copy machine, one postage machine and a fax machine. According to defendant, the firm is in transition, and new attorneys will assume ownership following the disposition of the instant case. Currently, there are three lawyers and six support staff employed for the firm, plus the defendant's daughter Mary, who is employed as a part-time paralegal.
31. As reflected by a business financial form provided by the defendant, the defendant's firm's total income was \$895,000 and total expenses were \$1,169,761. As reflected in the financial form, once the total expenses are deducted from the total income, the law firm's net profit for 1998 was -\$274,761.
32. **1987 to 1990:** The defendant reported that he was a senior partner and lead trial attorney in the law firm of Attorney, Attorney, Attorney and Attorney, Huntington, Long Island, which was a general law practice. The defendant reported that this firm dissolved in 1982, and the above-noted firm was established in its place (see previous paragraphs). The defendant noted that his salary varied during his years with this firm; however, estimated that he earned between \$50,000 and \$200,000 per year.
33. **June 1985 to January 1988:** As reported by the defendant, and verified by school records, the defendant was an Associate Professor with tenure as a full-time faculty member at St. John's University, Jamaica, New York. The defendant taught graduate and undergraduate law, and records reflect that he earned \$15,087 per annum. It is noted that the defendant was the moderator of Zeta Sigma Pi (a law society at St. John's University), and received the Best Teacher award in 1968. The defendant advised that as a result of his heart attack in 1974, he withdrew from many activities outside of his law practice, and in 1979, he ultimately stopped teaching altogether.
34. **1982 to 1985:** According to the defendant, he was a partner in Attorney and Attorney Great Neck, New York. This was a general law practice. The defendant advised that he

tried almost every kind of case during this period, ranging from fraud, matrimonial, commercial litigation, personal injury, and real estate. The defendant was unable to recall his income during this period. The defendant related that in 1964, one of the partners, John T. Attorney, ran for New York State Senate, and he (the defendant) served as his Campaign Manager. Upon his partner's election to the Senate, and the death of another partner, Old Attorney, this firm was dissolved in 1965, making way for the creation of the firm noted in the paragraph above.

35. **Prior to 1982:** the defendant was attending to educational endeavors.
36. The defendant reported that he has filed income tax returns on a regular basis. Records received by the Internal Revenue Service reflect the following.

<u>YEAR</u>	<u>ADJUSTED GROSS INCOME</u>
1988	\$ 83,048
1989	\$ 87,479
1990	\$ 74,977
1991	\$ 64,496
1992	\$160,881
1993	\$111,492
1994	\$ 41,454
1995	\$172,784
1996	\$ 69,840
1997	\$100,188

Financial Condition: Ability to Pay

37. The defendant submitted a personal financial statement listing the following assets and liabilities.
38. Bank Accounts - The defendant failed to provide bank statements verifying the following account balances.

Bank	How Held	Type of Account	Balance
First National Bank 253 New York Avenue Huntington, NY	Individual	Personal Checking	\$ 431
First National		Personal	

Bank 253 New York Avenue Huntington, NY	Individual	Money Market	\$10,482
Fleet Bank 250 Main Street Huntington, NY	Individual	Personal Savings	\$ 7,105
TOTAL			\$ 18,018

39. Securities - The defendant did not submit a recent portfolio statement to verify the following account balance.

NAME OF COMPANY	NUMBER OF UNITS	FAIR MARKET VALUE
USAA Subscriber's Savings	Unknown	\$ 4,401.91
TOTAL:		\$ 4,401.91

40. Real Estate - It is noted that WESTLAW records verify the ownership of the following properties by the defendant. The defendant submitted documents only verifying ownership of his residence.

PROPERTY ADDRESS	PROPERTY USE	FAIR MARKET VALUE	MORTGAGE BALANCE
445 Parkview Drive, Yorktown	Residence	\$670,000	\$448,350
3434 Waring St. White Plains, NY	Office	\$220,000	None
TOTAL:		\$890,000	\$448,350

The first-listed property is the case address. The defendant provided the deed to verify ownership of this home. As noted above, the defendant's wife initially purchased the home in 1993, for \$430,000. The defendant advised that he moved in the address of record in 1995, and that the deed was amended in 1998 to reflect his joint ownership in the residence. As verified by documents provided by the defendant, his monthly mortgage payment is \$3,943, and his mortgage will be satisfied in 2028. The second-listed property is the structure that houses the

defendant's law offices. The defendant failed to provide the Probation Department with a deed or any other documentation concerning this property. A Westlaw asset check revealed that this property was transferred in 1984, and that Sales Amount is \$220,000.

41. Motor Vehicles - The defendant did not submit copies of his registration to verify ownership of the following vehicles.

VEHICLE	OWNER NAME	FAIR MARKET VALUE
2014 Jaguar	Defendant	\$ 10,000
2013 Audi	Defendant	\$ 4,000
TOTAL:		\$14,000

42. Life Insurance - The defendant failed to provide copies of the following policies.

POLICY NAME	TYPE	AMOUNT
WILLIAM PENN	Term Life	\$ 150,000
WILLIAM PENN	Whole Life	\$ 150,000
NYS LIFE	Term Life	\$ 100,000
TOTAL:		\$400,000

43. The defendant reported that he has two credit card accounts (American Express, Citibank Visa) and a line of credit with First National of Long Island, which is individually owned. The financial statement submitted by the defendant reflects that, at present, he has an outstanding balance of \$105,854 due to the First National, and \$10,000 owed to Citibank Visa. The only other liability reported by the defendant is a \$40,000 debt owed to his wife for a business loan. His wife corroborated the same.

44. An Equifax credit history report reflects the following credit history.

ACCOUNT	AMOUNT OWED
American Express (credit card)	\$ 138
First National Bank(credit line)	\$105,000

Citibank (credit card)	\$ 889
Northwest (mortgage)	\$449,000
HB NV(charge credit)	\$ 2,365
TOTAL:	\$557,392

45. On his personal financial statement, the defendant reported that he and his spouse earn a combined monthly income of \$7,775 (derived from the defendant's earnings from his law firm, pension and his wife's salary). It should be noted that on his personal financial form, the defendant advised that his wife also has separate investment income which remains hers as part of a prenuptial agreement.
46. The defendant reported the following necessary monthly expenses. He did not submit documentation to verify the following expenses.

MONTHLY EXPENSES	AMOUNT
Mortgage	\$ 3,943
Utilities	\$ 330
Telephone	\$ 150
Groceries, supplies	\$ 800
Automobile Insurance	\$ 248
Health Insurance	\$ 469.12
Life Insurance	\$ 1,133
Transportation	\$ 150
Medical Expenses	\$ 50
Clothing	\$ 100
TOTAL:	\$7,373.12

47. Based on the above, the combined monthly income is \$7,775, and monthly expenses total \$7,373.12, yielding a positive monthly cash flow of \$401.88. As is further evident in this section, the defendant has a substantial amount of money in savings accounts, checking accounts, and stock.

48. Based on the defendant's financial profile, he is able to pay a fine.

PART D. SENTENCING OPTIONS

Custody

49. Statutory Provisions: The maximum term of imprisonment is 5 years. 18 U.S.C. 371.
50. Guideline Provisions: Based on a total offense level of 10 and a criminal history category of II, the guideline custody range is 8 to 14 months.

Supervised Release

51. Statutory Provisions: If a term of imprisonment is imposed, a term of supervised release of not more than 3 years may be imposed, per 18 U.S.C. 3583(a)&(b)(2).
52. Guideline Provisions: Pursuant to Guidelines 5D1.1(b) and 5D1.2(a)(2), if a term of imprisonment is imposed, a term of supervised release of at least 2 but not more than 3 may also be imposed.

Probation

53. Statutory Provisions: The defendant is eligible for probation by statute, 18 U.S.C. 3561(a). The authorized term of probation is not less than 1 nor more than 5 years, per 18 U.S.C. 3561(c)(1).
54. Guideline Provisions: The defendant is ineligible for probation, per Guideline 5B1.2(a)(1).

Fines

55. Statutory Provisions: The maximum fine is \$250,000. 18 U.S.C. 3571(b)(3).
56. A special assessment of \$50 is mandatory. 18 U.S.C. 3013.
57. Guideline Provisions: The fine range for the instant offense is from \$2,000 (5E1.2(c)(1)(A)), to \$20,000 (5E1.2(c)(2)(A)).

Restitution

58. The defendant is liable for restitution in the amount of \$6,000, pursuant to 18 USC 3663 and Guideline 5E1.1(a). Payment should be submitted to the Clerk of the Court, 225 Cadman Plaza East, Brooklyn, New York 11201, and be made payable

to American International Group Incorporated.

RESPECTFULLY SUBMITTED:

JAMES GARFIELD
CHIEF U.S. PROBATION OFFICER

Prepared by:

WILLIAM McKINLEY
Senior U.S. Probation Officer

Approved by:

J.F. KENNEDY
Supervising U.S. Probation Officer