



F A C T U A L R E S U M E

ELRY DEWAYNE COOPER

CRIMINAL NO. 4-89-029

INDICTMENT:      FOR PLEA PURPOSES:

COUNT 2 - Distribution of Marijuana in violation of Title 21, United States Code, Section 841(a)(1).

PENALTY:            \$250,000 fine - five (5) years imprisonment, or both such fine and imprisonment.

MAXIMUM PENALTY

\$250,000 fine and five (5) years imprisonment, plus a term of supervised release not less than two (2) years. In addition the Court must impose a MANDATORY SPECIAL ASSESSMENT of \$50.00.

ELEMENTS OF THE OFFENSE:

Before the defendant may be found guilty of the offense alleged in Count 2 of the Indictment, the Government must prove the following elements beyond a reasonable doubt:

1. That on or about the date alleged in Count 2 of the Indictment, the defendant did distribute approximately 9.0 grams of marijuana; and
2. That the defendant so acted knowingly and intentionally.

FACTS:

Between March 8, 1988 and July 5, 1988, the defendant, ELRY DEWAYNE COOPER, a mailhandler at the United States Postal Service General Mail Facility in Fort Worth, Texas, discussed the sale of marijuana to a fellow postal employee. On July 6, 1988, the defendant stated that he would bring one-half ounce of marijuana to the Fort Worth General Mail Facility that evening and would sell it for \$45.00. The evening of the same date, the

defendant delivered to the fellow employee at the Fort Worth General Mail Facility for \$45.00 in official Government funds what he stated to be approximately one-half ounce of marijuana. Upon analysis the substance was found to be approximately 9.0 grams of marijuana, a Schedule I controlled substance.

On July 20, 1988, the defendant advised the fellow employee that he could provide him with one ounce of marijuana for \$90.00. On July 21, 1988, the defendant delivered to the fellow postal employee at a location in Fort Worth, Texas a substance which he stated was one ounce of marijuana in exchange for \$85.00 in official Government funds. Upon analysis the substance proved to be approximately 25.4 grams of marijuana, a Schedule I controlled substance. During the next several weeks the defendant and the fellow employee discussed the future sale of marijuana. On October 4, 1988 the defendant stated that he could provide ounce quantities of marijuana and the fellow employee requested two (2) ounces for a total of \$120.00. On October 5, 1988 the fellow postal employee provided \$120.00 to the defendant for the purchase of two ounces of marijuana, and the defendant delivered to the fellow postal employee, at the Fort Worth General Mail Facility approximately 48.7 grams of marijuana, a Schedule I controlled substance.

PLEA

AGREEMENT:

Upon the entry by the defendant of his plea of guilty to Count 2 of the Indictment, and persisting in that plea through sentencing, at time of sentencing, the Government will move the Court to dismiss the remaining counts of the Indictment against the defendant, those being Counts 1, 3 and 4. The defendant further agrees to make restitution to the United States Postal Service in the amount of \$260.00 in repayment for the monies expended to purchase controlled substances from him.