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FEDERAL BUREAU OF INVESTIGATION

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The following is a recorded conversation between HENRY LACKEY and TIMOTHY BALDUCCI on November 1, 2007:

1D25

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Investigation on 11/01/2007 at Calhoun City, Mississippi

File # 194A-JN-32354-1D25

Date dictated 01/02/2008

by SA WILLIAM P. DELANEY/jrb

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BALDUCCI: ...I've been gettin' a lot of criminal business out of Oxford. Small stuff, you know, felony work, twenty five hundred...

LACKEY: Heh.

BALDUCCI: ...five thousand dollar retainers, you know...

LACKEY: Yeah.

BALDUCCI: ...(clears throat), but I tell you what it's done. It has supported that Oxford office.

LACKEY: Yeah.

BALDUCCI: You know, so I mean it's paying its own way...

LACKEY: Why sure.

BALDUCCI: ...off of just criminal work. 'Cause you know, I still, have I guess a pretty good name for that over in that area and people remember me doing that from, you know, years back and uh, it's just a, you know, lettin' people know I'm still interested...

LACKEY: Well sure.

BALDUCCI: ...in gettin' those cases.

LACKEY: Yeah.

BALDUCCI: Which brings me to another matter I wanted to discuss with you.

LACKEY: Alright.

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BALDUCCI: Well; you got time?

LACKEY: Sure.

BALDUCCI: You got time...

LACKEY: Sure.

BALDUCCI: ...to talk about this? Um, the, I, I, I'm reluctant to continue to go back to the same well...

LACKEY: Well, uh...

BALDUCCI: ...uh, for drinkin' water, but I did wanna tell ya of an opportunity that is, that is available to us...

LACKEY: Alright.

BALDUCCI: ...that I wanted to discuss with you.

LACKEY: Alright.

BALDUCCI: Um, and just see what you think about it. And it's, it's a criminal case in Marshall County. Now, I don't know 'cause I ain't been up there in so long. Are you, do you still go to Marshall County?

LACKEY: Yeah.

BALDUCCI: (talking simultaneously) Is that, is that (UI)

LACKEY: I'm, I spend most of my time in...

BALDUCCI: (clears throat)

LACKEY: ...Marshall and, and...

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BALDUCCI: Ok.

LACKEY: ...Lafayette.

BALDUCCI: 'Cause I didn't know if you were the judge in Marshall County or not. But let me tell you what it is. This one, this one's kinda tailor made...

LACKEY: Alright.

BALDUCCI: ...for, for, for this sort of deal. Um, the case is, alright you know RAY MINOR (phonetic). RAY MINOR is transportation commissioner...uh, no...

LACKEY: BILL MINOR.

BALDUCCI: ...BILL MINOR.

LACKEY: BILL MINOR.

BALDUCCI: BILL MINOR is transportation commissioner.

LACKEY: Yeah, yeah.

BALDUCCI: Alright, his brother is RAY MINOR, ok?

LACKEY: Mm-hmm.

BALDUCCI: Big politicos. Got money. You know? Been around for a while. Well, BILL's brother, RAY's son is DARREN MINOR. Ok? So it'd be BILL's nephew, is, is is DARREN MINOR.

LACKEY: Ok. Uh, uh, this is, now, now BILL MINOR's brother is RAY.

BALDUCCI: Is RAY.

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LACKEY: RAY has a son...

BALDUCCI: Son named DARREN.

LACKEY: DAVID?

BALDUCCI: DARREN.

LACKEY: DARREN, ok.

BALDUCCI: DARREN MINOR.

LACKEY: My hearing is not...

BALDUCCI: Yeah, ok. DARREN MINOR.

LACKEY: Ok.

BALDUCCI: DARREN MINOR, BILL's nephew, DARREN MINOR is just a habitual fuck up. I mean just, (laughs) there's no other way to say it. Just, I mean just a habitual fuck up. You know?

LACKEY: Someone just...

BALDUCCI: Just drugs, alcohol, I mean just a...

LACKEY: Mm-hmm.

BALDUCCI: ...been involved you know, never been arrested for a felony, but has had just all kinds of damn DUIs and simple possession of marijuanas...

LACKEY: Mm-hmm.

BALDUCCI: ...just, I mean just a fuck up. Well, it's been now, I don't remember the exact date, but it's been a long time, two

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years probably, DARREN is involved in a vehicular manslaughter...

LACKEY:

Oh.

BALDUCCI:

...gets indicted for it. It's on Highway 7 in Marshall County. Early one morning, bad, heavy fog, he's going down the road and he crosses over the center line, hits a man head on and causes a collision. Then another car trailin' 'em rams in from the rear and hits that car. Ok? Man dies. Ok?

LACKEY:

Was he intoxicated?

BALDUCCI:

DARREN?

LACKEY:

DARREN.

BALDUCCI:

Here's what happens. (clears throat) The Highway Patrolman orders a blood test on our guy...

LACKEY:

Ok.

BALDUCCI:

...but he orders it under the old statute, ok, that you know, the Supreme Court held unconstitutional.

LACKEY:

Mm-hmm.

BALDUCCI:

So the DA's office has conceded that, and it was positive for a bunch of shit...

LACKEY:

Mm-hmm.

BALDUCCI:

...amphetamines, methamphetamines. I mean...

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LACKEY: Mmm.

BALDUCCI: ...our guy's tanked up. But the DA's office has conceded that that's an illegal test, ok, that they can't use that as a basis...

LACKEY: Yeah.

BALDUCCI: ...of his prosecution. But so my guy is hurt in the accident, goes to the hospital in Marshall County. During the course of his medical treatment, they pull urine on him and his urine is hot for I can't remember, but hot for I think meth.

LACKEY: Mm-hmm.

BALDUCCI: So the DA's office indicts DARREN for I don't know, vehicular manslaughter, aggravated DUI, whatever it is.

LACKEY: Mm-hmm.

BALDUCCI: But based on this hospital test ok?

LACKEY: Is that not privileged?

BALDUCCI: No.

LACKEY: Oh.

BALDUCCI: There is a Supreme Court case that that, that very issue went to the Supreme Court on a case out of I think Bolivar County and the Supreme Court issued a ruling saying that the privilege does not apply.

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LACKEY: Mmm.

BALDUCCI: There were two issues in that case. One was privilege...

LACKEY: Yeah.

BALDUCCI: ...and they struck that down and said you cannot use the privilege to, to bar them from introduction of that in the criminal case. The other was, under the statute um, when you use, like the implied consent law, it says uh, you, the test has to be conducted in accordance with the crime lab specifications and all that shit and this wasn't done at the hospital and the damn Supreme Court says that don't matter. They said you can't use that as an exclusionary rule, ok? So that sucks. That's two things that are done. But that case did not address the probable cause issue, ok? Because if you'll remember what, when the, when the fatality statute got struck down, they, it struck, the Supreme Court struck it down as unconstitutional because it didn't allow for probable cause.

LACKEY: Right.

BALDUCCI: It just says if you're involved in a fatality...

LACKEY: Yeah.

BALDUCCI: ...we can pull blood on you.

LACKEY: Yeah.



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BALDUCCI:

And they said that's unconstitutional. You gotta have probable cause to, to have a sample. So, my argument and I think it's correct, my argument is ok, the, his urine test was produced, was uh, was taken from him in the course of medical treatment. It was not requested by law enforcement and not only was it not requested by law enforcement, they had no probable cause to request. Their test, they relied on the blood test and they, they never had probable cause to, to have any of it. So, my argument is the indictment ought to be quashed because there's no probable cause for this urine test. Now the DA's office, they ain't figured that out yet. They're just relying on saying it's not privilege...

LACKEY:

Mm-hmm.

BALDUCCI:

...the Supreme Court, LONNIE uh, what's her name, LONNIE HILL?

LACKEY:

Mmm, uh, HILL. Yeah.

BALDUCCI:

She's just holding this case up...

LACKEY:

Mm-hmm.

BALDUCCI:

...from the Supreme Court, saying it's not privilege, we can introduce it. But she ain't figured out yet that she ain't got probable cause for that test.

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LACKEY: Yeah.

BALDUCCI: So what I wanna do is, I wanna bring on a motion to quash the indictment for lack of probable cause and...

LACKEY: You think if, if uh, if that was quashed, do you think that'll take care of it?

BALDUCCI: I'm certain it would. Now, the DA's office may appeal that.

LACKEY: Uh-huh.

BALDUCCI: I think they could probably appeal that.

LACKEY: Yeah.

BALDUCCI: But I don't care. Let 'em appeal it. Let the Supreme, at that point, the Supreme Court can sort that out. You know?

LACKEY: Yeah.

BALDUCCI: That doesn't bother, that doesn't bother me. I'm...

LACKEY: Yeah.

BALDUCCI: ...I'm, my interest is in winnin' it at the trial level and avoiding a trial, gettin' it quashed on the front end, gettin' my guy off and if the DA's office appeals it, fine with me. I don't care. Um...

LACKEY: Think that would...

BALDUCCI: ...there's an opportunity...let me, let me explain to you...

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LACKEY: Ok.

BALDUCCI: ...why this, there's an opportunity here.

LACKEY: Uh-huh.

BALDUCCI: Because RAY MINOR, he came, the way this case got to me is when, when RAY's boy, when DARREN got arrested, RAY went to KENNY DICKERSON...

LACKEY: Mm-hmm.

BALDUCCI: ...and said I gotta have some help. What do I do? And KENNY told him to call me.

LACKEY: Mm-hmm.

BALDUCCI: Well, I was still at JOEY's.

LACKEY: Mm-hmm.

BALDUCCI: So RAY, I said fine, of course I'll help you. Come up here. I'll help you.

LACKEY: Sure.

BALDUCCI: And (laughs), this just goes to show you how, how, how JOEY was. I told him KENNY asked me to do it as a favor for RAY.

LACKEY: Mm-hmm.

BALDUCCI: And I said fine. Well, when I told JOEY about it, JOEY said hell no. We're not doing it for free. We're not doing it as a favor for anybody. They've got money. Let's get it from 'em. So JOEY quotes RAY a thirty

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thousand dollar fee, and RAY pays it in cash. Thirty thousand dollars that JOEY pockets.

LACKEY:

Mm-hmm.

BALDUCCI:

Ok? Well, when I leave, RAY tells JOEY, you know I, I hired TIM. I want TIM to handle this. So the case came with me, ok?

LACKEY:

Did the funds come...

BALDUCCI:

No. Well hell no. Of course not. JOEY kept the money and then sent the case with me. So I've got the, I mean, it's my case and I'm representin' RAY. 'Course I hadn't been paid on it...

LACKEY:

Uh-huh.

BALDUCCI:

...and JOEY kept the money, but what I think I can do is, I think I can go to RAY and I can sit RAY down and I can say, and I can just tell him the truth. Say look, all that money, JOEY kept all that money, I didn't get any of it. I need to get paid for this, and I've got a really good theory that I think I can get this dismissed under before trial. I think I can be successful. And I figure I can get RAY to probably pay me another twenty probably in cash. And what I was thinking is if I can get that done, and I just, I won't say anything to him other than...

LACKEY:

Yeah.

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BALDUCCI: ...you just need to pay me...

LACKEY: Yeah.

BALDUCCI: ...and hire me...

LACKEY: Ok.

BALDUCCI: ...to do this, you know...

LACKEY: Right.

BALDUCCI: ...because I hadn't been paid anything and I need to get paid and I got a real good theory. I think I can be successful. I'm not going to tell him anything beyond that, just...

LACKEY: Yeah.

BALDUCCI: ...I think I've got a good theory. I think I can get the legs cut out of this beforehand, gimme twenty grand to do it, and if he does, then I thought me and you could split it and we could, you know, we could get it taken care of.

LACKEY: We can do that.

BALDUCCI: Ok. Well...

LACKEY: We could do that.

BALDUCCI: ...then if you, if you're in, if you're inclined, I think I'm gonna meet with him, call him and meet with him to come, come see me. Now, the other thing is this case is set for trial in the November term.

LACKEY: Ok.

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BALDUCCI: And we're probably gonna need to continue it, probably gonna have to continue it...

LACKEY: Alright, let's...

BALDUCCI: ...and they, and, and the DA's office, the DA's office might object to this continuance.

LACKEY: Well...

BALDUCCI: But the other thing, judge, is...

LACKEY: Well...

BALDUCCI: ...they ain't got, they ain't given me all my discovery. There's some photos from the scene that they hadn't produced.

LACKEY: Yeah.

BALDUCCI: So if they give me any shit about a continuance...

LACKEY: Mm-hmm.

BALDUCCI: ...I'ma file a formal motion for continuance and I'ma say that they hadn't given me the discovery and uh, I mean, that'll be easy for you to give me a continuance 'cause I hadn't gotten my discovery. And so...

LACKEY: Ok.

BALDUCCI: ...we'd put it off 'til February and then I'ma file a motion to quash in the meantime after I get paid. I'll file a

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motion to quash...

LACKEY:

Sure.

BALDUCCI:

...that indictment. And then we'll have (UI)

LACKEY:

(talking simultaneously) And they've got, do you think they've got the money?

BALDUCCI:

Uh, I don't know, but I'm pretty sure they do.

LACKEY:

Yeah, well they can get it.

BALDUCCI:

They can get it. That's why I say...

LACKEY:

Yeah.

BALDUCCI:

...may have to get a little time...

LACKEY:

Alright.

BALDUCCI:

...but I'll just tell him you need to bring me twenty in cash...

LACKEY:

How did, how did, how did uh, JOEY just keep it and not do anything?

BALDUCCI:

(makes noise)

LACKEY:

(UI)

BALDUCCI:

'Cause he, just 'cause he did, judge. Just 'cause that's just the damn way he is, you know? Shit, he just...

LACKEY:

Eaten up with money too.

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BALDUCCI: I mean just, yeah. I mean, I guess that's why he's eat up with money, you know? But...

LACKEY: Mm-hmm.

BALDUCCI: ...you know, that's my biggest, that's, STEVE, we laugh all the time. STEVE says, he says shit, me and you ain't never gonna have nothin' 'cause we just give it all away (laughs). You know? We just...

LACKEY: (laughs) Yeah.

BALDUCCI: ...but...

LACKEY: Yeah.

BALDUCCI: ...but uh, I just ain't like that. I mean, I just ain't gonna. I just not gonna just screw people over like that, you know?

LACKEY: Yeah.

BALDUCCI: But I mean hell, the, the, and I, and I told JOEY, I said well you know, at least you ought to take the case, yeah, or be on it with me, 'cause see...

LACKEY: Yeah.

BALDUCCI: ...they don't want him. They came to me.

LACKEY: Yeah.

BALDUCCI: And, and...

LACKEY: Yeah.



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BALDUCCI: ...and I tried, frankly, I tried to kinda bail when I left and say...

LACKEY: Mm-hmm.

BALDUCCI: ...you got the money, you take the case.

LACKEY: Yeah.

BALDUCCI: But RAY and them wouldn't, they wouldn't agree to it. They said no, we came, we hired you.

LACKEY: Mm-hmm.

BALDUCCI: You know? We wanted you, so. But uh...

LACKEY: Well I'm, well it, it's still rainin'.

BALDUCCI: It's still rainin'.

LACKEY: Alright.

BALDUCCI: That's right.

LACKEY: Well good (laughs). We...

BALDUCCI: It's still rainin'. It's still rainin'.

LACKEY: ...we, we can, we can stand a shower...

BALDUCCI: But I think that's one that's just tailor made, you, you know...

LACKEY: Yeah.

BALDUCCI: ...for, for...

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LACKEY: Yeah.

BALDUCCI: ...an arrangement like this because it's, it's, I think, I think, A. I think we're right.

LACKEY: Mm-hmm.

BALDUCCI: To begin, we got good law and good facts on our side...

LACKEY: Yeah.

BALDUCCI: ...I think we're right. And uh, we got folks that we can deal with to get it done, I think.

LACKEY: Uh-huh.

BALDUCCI: So um, yeah. So, if you're so inclined, I think um...

LACKEY: But um...

BALDUCCI: ...I think we can, we can work somethin' out on that.

LACKEY: Alright. Well uh, what do you think, what do you think about the attorney general's race? Is HOOD gonna pull it?

BALDUCCI: I think he's gonna pull it out. I think it's tightening up, but I, I think it's tightening up. Um, I think he's gonna, I think he's gonna pull it out.

LACKEY: Uh-huh.

BALDUCCI: But uh...

LACKEY: Maybe we can get that, maybe you can get that tit out of JOEY's mouth...