

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

JOSHUA DOBSON,)	
Petitioner)	Docket No. 1:12-cr-42,
)	
v.)	Judge Collier
)	
UNITED STATES OF AMERICA)	
Respondent)	

AFFIDAVIT OF JOSHUA DOBSON

I, JOSHUA DOBSON hereby depose and state as follows:

1.) I am Joshua Dobson. I am an adult over 21 years of age and competent to give this Affidavit, and I give this Affidavit based upon my personal knowledge.

2.) I was formerly involved with a company known as The Southern Group, and as part of our business, we were involved in a real estate development known as The Preserve.

3.) In May of 2012, I was indicted by a Federal Grand Jury sitting in Chattanooga, and was charged with claims that I had conspired with others to commit wire fraud and money laundering in connection with The Preserve real estate development. After I was indicted, I hired an attorney to represent my interests. The attorney I hired was Christopher Townley. When I initially met with my newly retained trial counsel, Mr. Townley told me he had talked with the government attorneys and advised me that the government wanted information about others involved with my business, and also wanted me to testify against three (3) of the people involved with my business, Joel McCormick, Kenneth Chadwell, and Travis Shields. My then wife, Cristy Dobson was present at this meeting, and Mr. Townley also told us both at this meeting

that the government would agree to a sentence of around one (1) year if I would cooperate, plead guilty, and testify against the others. Mr. Townley did not advise me as to what type of actual sentence or time I could be facing if I went to trial and lost.

4.) Based upon the advice of my attorney, Chris Townley, I was not interested in a plea agreement which would involve me pleading guilty, serving approximately one(1) year in prison, and testifying against business associates that I did not believe had done anything wrong.

5.) After the indictment, the case proceeded through the pre-trial and discovery phase, and we approached our trial date. During this pre-trial phase, Mr. Townley did not advise me as to what the potential punishment or what sentencing guidelines may apply to me if we went to trial and lost. We were focused on the charges against me and the trial on the merits and Mr. Townley did not advise me regarding the potential sentencing phase, if we lost. Mr. Townley appeared to share my confidence in our ability to win the case and obtain a not guilty verdict at trial.

6.) Approximately two (2) weeks before the trial was scheduled to commence, my then wife Cristy was doing some research on the internet, and she found some article that showed that over ninety-eight percent (98%) of people that are indicted in the federal system are found guilty if they go to trial. My wife became upset and wanted me to call my attorney Townley to discuss this statistic. I called Mr. Townley and talked with him about what would happen if I pled guilty, as opposed to going to trial. Mr. Townley told me he would call the lead prosecutor, John McCoon, and discuss a potential plea bargain with the prosecutor. Mr. Townley then called me back and indicated that he had talked with Mr. McCoon and that Mr. McCoon would allow me to plead guilty and only use the amount of the down payments from the transactions in calculating any loss. Mr. Townley told me that if I entered into such a plea, I would be facing between 2 to 4 years. Mr. Townley then asked me if I thought I had done anything

wrong, and when I told him “No”, Mr. Townley told me that he agreed with me, and that he felt we should go to trial, that he was prepared to trial, and that we should reject any plea offer. At no time, did Mr. Townley advise me that I could possibly be facing in excess of ten (10) years in federal prison if I exercised my constitutional right to go to trial, and then lost.

7.) We later went to trial and a jury returned a conviction against myself and my former business associate, Paul Gott, III. Obviously, I was quite upset as was my wife, Cristy. As my then wife and I were sitting at counsel’s table in the courtroom talking with Mr. Townley, after the verdict was read, my wife asked Mr. Townley “What kind of time is Josh facing?” Mr. Townley told us he did not know yet what type of time I would be facing, and that he was going to research it and he asked that we join him as he performed his research. My wife and I were both extremely upset and I told Mr. Townley I just wanted to go home and asked him to call me after he had completed his research regarding what potential time I might be facing.

8.) Mr. Townley then called me a couple of days later and told Cristy and I that based upon his research, he thought I would be facing two (2) to five (5) years in prison. Sometime after this phone conversation with Mr. Townley, my wife and I found a Federal Guideline Sentencing Table on the internet. This was the first time that I had ever seen the sentencing guidelines. As of the day of the verdict, Mr. Townley had never discussed with me anything having to do with the sentencing guidelines, specific offence conduct, loss amount, and/or relevant conduct.

9.) Sometime after the verdict was rendered against me, Mr. Townley and I met for a pre-sentence report (PSR meeting), and interview with Mr. Turney. In this meeting, after some preliminary questions from Mr. Turney, Mr. Townley asked him what the ‘loss amount’ was going to be, and Mr. Townley provided Mr. Turney with the deeds from the deal that I was convicted upon. At this time, Mr. Turney told Mr.

Townley and I that the government was going to use "relevant conduct", and that the government had indicated that there was over \$26 million dollars in losses. Mr. Turney indicated that he was waiting on a chart from the prosecutors addressing the amount of the losses and that he would get us a copy of the chart after he received it. Mr. Townley told Mr. Turney at this PSR meeting that the government could not use 'relevant conduct' because that only applied to drug cases.

10.) After this PSR meeting with Mr. Turney, my counsel, Mr. Townley explained to me, for the first time, the term 'relevant conduct' and how it may apply to sentencing. Mr. Townley explained to me that it normally applied to drug cases, and I specifically told him that I had never previously heard the term 'relevant conduct' and that he had never explained it to me before.

11.) After this meeting with Mr. Turney, and after Mr. Townley for the first time, explained to me, 'relevant conduct' and how the amount of alleged losses could substantially increase my potential prison time, I immediately called my father and told him that the meeting had not gone well. We decided at that time that I needed to retain another lawyer to represent me in connection with the sentencing phase, as it appeared, Mr. Townley was not an expert in regards to sentencing guidelines.

12.) When we did finally have a sentencing hearing, I was extremely surprised to learn that the government could use what I thought to be unrelated, alleged losses, against me to enhance the sentence range I was facing. I was frankly shocked when the trial judge concluded that the sentencing guidelines applicable to me would be 151 to 188 months, and I was also extremely shocked when I was eventually sentenced to 126 months in federal prison. My trial attorney, Mr. Townley, had never advised me at any time before or during the trial that I could face a sentence of this magnitude.

13.) Had Mr. Townley ever advised me that I could even potentially be facing a sentence of ten (10) years or more in federal prison, I would have accepted the plea offer communicated to me by Mr. Townley which he had obtained from assistant U.S. attorney, John McCoon.

14.) Had Mr. Townley ever advised me that I could be facing prison time in excess of 10 years, I would have accepted the plea offer made by the government. Because Mr. Townley did not advise me of the potentially applicable sentencing guidelines and how 'relevant conduct' could dramatically increase the alleged loss that may be used against me, I strongly feel I was denied the ability to make an informed decision regarding whether or not to accept the government's plea offer.

FURTHER AFFIANT SAITH NOT.




Joshua Dobson

Sworn to and Subscribed Before Me

This ___ day of _____, 2016.

NOTARY PUBLIC

My Commission Expires:_____.

(name) , (title) CSW
Authorized by the Act of July 7, 1955, as amended, to
administer oaths (18 U.S.C. § 4004).

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and correct copy of the foregoing has been served upon all counsel of record via electronic mail, this 25th day of August, 2016, as follows:

Perry H. Piper
Asst. U.S. Atty.
1110 Market St
Ste. 515
Chattanooga, TN 37402

s/ Michael Richardson

Michael E. Richardson