

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MARSHALL
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
 vs.)
) 03 CR 876
DALE DAVIS)
)

IMMUNITY AGREEMENT

This Immunity Agreement between the United States Attorney for the Northern District of Marshall, WIL LANGELIER, and the defendant, DALE DAVIS, and DALE DAVIS’S attorney, JACOB TYLER, is made upon defendant DALE DAVIS accepting responsibility for his/her behavior and by his/her signature on this Agreement, it appearing that the interests of the United States and defendant DAVIS's own interest and the interest of justice will be served by the following Immunity Agreement.

This Immunity Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and the defendant regarding the defendant's criminal liability for any criminal acts the defendant may have committed on or before April 13, 2003.

This Immunity Agreement concerns criminal liability only, and nothing herein shall limit or in any way waive or release any administrative or judicial civil

claim, demand, or cause of action, whatsoever, of the United States or its agencies. Moreover, this Agreement is not limited to the United States Attorney's Office for the Northern District of Marshall and binds any other federal, state, or local prosecuting, administrative, or regulatory authorities.

By this Immunity Agreement, WIL LANGELIER, United States Attorney for the Northern District of Marshall, and the defendant, DALE DAVIS, and defendant's attorney, JACOB TYLER, have agreed upon the following:

1. The defendant acknowledges that he/she has been charged in the indictment in this case with conspiring to possess, with intent to distribute, an amount in excess of 50 grams of a mixture or substance containing cocaine base (commonly known as "crack cocaine"), in violation of Title 21, United States Code, Section 846 (Count One); and possessing with intent to distribute in excess of 50 grams of a mixture or substance containing crack cocaine, in violation of Title 21, United States Code, Section 841(a)(1).

5. The defendant acknowledges his/her guilt because he/she is in fact guilty of the charges contained in the indictment. In admitting his/her guilt, the defendant admits the following facts and that those facts establish his/her guilt beyond a reasonable doubt:

The defendant acknowledges beginning at least as early as January 1, 1993, and continuing through April 13, 2003, at Marshall City, in the Northern District of Marshall, Eastern Division, and elsewhere, he/she and Jan Bridges conspired and agreed with each other and other parties knowingly to possess with intent to distribute in an amount in excess of 50 grams of a mixture or substance containing cocaine base (commonly known as "crack cocaine"), a Schedule II Narcotic Drug Controlled Substance, in violation of Title 21, United States Code, Section 846.

More specifically, defendant acknowledges that for a period of time beginning at least as early as January 1, 1993 he/she, along with a street gang commonly known as "the Red Rovers," a group in excess of 25 members, of which he/she was the leader, sold crack cocaine, cocaine powder, and heroin, on the streets of Marshall City. The defendant acknowledges that a number of "the Red Rovers" were under the age of 18 and were used to assist in the illegal activities of the gang. The defendant acknowledges that while he/she was in the penitentiary, he/she still controlled the illegal activities of "the Red Rovers," through the use of telephones and messengers. The defendant further acknowledges that on or about April 1, 2002, he/she entered into an agreement with Jan Bridges, a Marshall City police officer, to sell crack cocaine, cocaine powder, and heroin, which was to be supplied by Jan Bridges. The defendant further acknowledges that he/she had a quantity of cocaine, specifically, 353 grams of cocaine base on April 13, 2003 in

his/her possession when arrested by agents of the DEA, which the defendant stated was supplied by Jan Bridges, on or about February 12, 2003.

The defendant acknowledges that the factual summary set forth above is for the purpose of establishing a factual basis for his Immunity, and is not a full recitation of all of his/her knowledge regarding these matters and related matters.

6. In the event that this immunity agreement is violated and the defendant is either found guilty or pleads guilty to the indictment, the defendant agrees that any sentencing of the defendant is governed by the November 2002 edition of the Guidelines Manual.

(a) Pursuant to Guidelines 1B1.3, 2D1.1(a)(3) and (c)(1), the base offense level is level 38 because the amount of crack cocaine involved in the offense of conviction and relevant conduct for which the defendant is accountable is at least 1.5 kilograms.

(b) Pursuant to Guideline 3B1.1(a), a four-level increase in the offense level is appropriate because the defendant was a leader of a criminal activity that involved five or more participants.

(c) Pursuant to Guideline 3B1.4, a two-level increase in the offense level is appropriate because the defendant used persons less than 18 years to assist in the commission of the instant offense.

(d) The defendant further agrees that if there is a violation of the immunity agreement, no decreases in the offense level for acceptance of responsibility would be appropriate.

(e) On or about March 1, 1993, defendant was convicted in the Circuit Court of Marshall County, Marshall, of possession of a controlled substance and sentenced to twelve months probation. Accordingly, 1 criminal history point is added pursuant to Guideline 4A1.1(c).

(f) On or about July 7, 1994, defendant was convicted in the Circuit Court of Marshall County, Marshall, of third degree possession of a controlled substance and sentenced to twenty-one months imprisonment. Accordingly, 3 criminal history points are added pursuant to Guideline 4A1.1(a).

(g) Because defendant committed this offense while on probation and while incarcerated, 2 criminal history points are added pursuant to Guideline 4A1.1(d).

(h) Because the defendant committed this offense less than two years after release from imprisonment, 1 criminal history point is added pursuant to Guideline 4A1.1 (e).

(i) Based on the facts presently known to the government, the defendant's criminal history points equal 7, and his Criminal History Category is IV.

9. The defendant understands that the indictment to which he/she is receiving immunity carries a maximum term of imprisonment of life, a statutory minimum sentence of 10 years' imprisonment, a maximum fine of \$4,000,000, and a term of supervised release of at least five years up to and including life.

14. The defendant agrees to provide complete and truthful information in any investigation and pre-trial preparation, and complete and truthful testimony, if called upon to testify, before any federal grand jury and United States District Court proceeding, and any related civil administrative or court proceeding.

18. The defendant understands that in the event that he/she violates this Agreement, the government, at its option, may move to vacate the Immunity Agreement, rendering it null and void, and thereafter prosecute the defendant. The defendant understands and agrees that in the event that this Immunity Agreement is breached by the defendant, and the government elects to void the Immunity Agreement and prosecute the defendant, any prosecutions that are not time barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against the defendant in accordance with this paragraph,

notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

23. The defendant acknowledges that he/she has read this Agreement and carefully reviewed each provision with his/her attorney. The defendant further acknowledges that he/she understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE:

WIL LANGELIER
United States Attorney

DALE DAVIS
Defendant

JACOB TYLER
Attorney for Defendant