

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
 vs.) No. 08 CR 846
) Honorable Joan H. Lefkow
 JON BURGE)

**DEFENDANT'S NOTICE OF PRIOR CONVICTIONS
PURSUANT TO RULE 609(b) OF THE FEDERAL RULES OF EVIDENCE**

Defendant JON BURGE, by his attorneys, pursuant to Rule 609(b) of the Federal Rules of Evidence respectfully provides notice of convictions of government witnesses in which more than ten years has expired from the date of conviction or release from custody:

1. Anthony Holmes

- 4/2/65- Robbery (65-945)
- 4/2/65- A/Robbery (65-946)
- Attempted Robbery-2 (65-947)
 - 5 YRS Probation and 1 YR House of Correction
- 8/4/66- Robbery- 1-3 YRS (66-2107)
- 9/28/70- Theft of Auto, plea of guilty, 1 YR 1 DAY (70-2725)
- 2/5/74- Murder etc., Finding of Guilty 20-75 YRS Illinois Department of Corrections (73-3442)
- 3/21/74- Armed Robbery, 3YRS & 1 DAY (71-2788)

2. Melvin Jones

- 5/20/75- Possession of a Controlled Substance, Plea of Guilty, 1-4 YRS (73-3534)

- 5/7/75- Armed Robbery, Plea of Guilty, 4 YRS & 1 DAY (74-2247)
- 5/20/75- Theft, Plea of Guilty, 1-4 YRS (74-2978)
- 1/19/79- Armed Robbery, Finding of Guilty, 7 YRS (A-02261)
- 12/5/91- Possession with intent to Deliver, Finding of Guilty, 1 YR IDOC (91-CR-17347)
- 12/5/91- Possession with intent to Deliver, Finding of Guilty, 3 YRS, Consecutive (91-CR-26380)

3. Michael Johnson

- 3/25/71- Armed Robbery (71-234), 3 YRS Probation
- 4/16/73- Robbery (72-778)
- 4/16/73- Aggravated Assault, (72-1940) (73-101) (71-1698)
 - Plea of Guilty for each and 2-4 YRS each
- 1/8/76- Armed Robbery, 12 YRS
- 1/8/76- Armed Robbery, 15 YRS

4. Shadeed Mumin

- 2/4/72- Armed Robbery (33 531) 10 to 25 YRS
- 2/3/77- Robbery (10762) 10-25 YRS
- 11/6/87- Attempted Murder (85 C 13285) Plea Guilty/Finding Guilty, 15 YRS
- 11/6/87- Agg. Battery (85 C 13285) Plea Guilty/Finding Guilty, 15 YRS
- 11/6/87- Arm/Violence (85 C 13285) Plea Guilty/Finding Guilty, 15 YRS

5. Gregory Banks

- 10/18/80- Burglary (80-19004), 2 YRS Probation + 2 Days HC, \$200 Rest
- 1/3/82- Burglary (81I 3853), 3 YRS
- 3/31/82- Burglary wt. Viol. Prob., 3 YRS
- 7/15/94- Residential Burglary (94 CR 15612), 4 YRS
- 7/15/94- Residential Burglary (94 CR 23229), 4 YRS

6. Derrick Martin

- 7/22/76- Att. Murder (75-188), 4 YRS and 1 Day
- 7/22/76- Armed Robbery (75-188), 4 YRS and 1 Day

The foregoing list was assembled from rap sheets provided by the government as part of its 3500 production, as well as the discovery database. This list does not include Andrew Wilson's prior convictions, as the government has agreed to the impeachment by prior convictions as set forth in his former testimony. Nor does the list include convictions not encompassed by Rule 609(b). In addition, the list does not include ten-year-old-plus convictions for individuals on the government's witness list whom the government has informed us it no longer intends to call at trial (*e.g.*, Alfonso Pinex and Wade Roy Brown).

Defendant further states that arrests/interrogations corresponding to the above convictions may be admissible for reasons independent of Rule 609(b). For example, the fact that an arrestee was on parole at the time of a confession

and did not desire to return to prison would supply him with a motive to fabricate allegations of police abuse. Facts arising out of an interrogation that is a “relevant case” in this case (but also resulted in the witness’ conviction) cannot be wholly divorced from the evidence in this case.

The theories of admissibility, including whether the convictions are admissible under Rule 609(b), are best explored at trial, before the witnesses’ examinations, when the Court may adequately assess context and proposed impeachment. *E.g., United States v. Caputo*, 313 F. Supp.2d 764, 767-68 (N.D. Ill. 2004); see *Kelly v. Boeing Petroleum Services, Inc.*, 61 F.3d 350, 357 (5th Cir. 1995) (“[w]e agree with other circuits that have cautioned that an appellate court should carefully examine blanket pre-trial evidentiary rulings”).

Respectfully submitted,

/s/ Marc W. Martin

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CERTIFICATE OF SERVICE

I, MARC W. MARTIN, an attorney for Defendant Jon Burge, hereby certify that on this, the 10th day of May, 2010, I filed the above-described document on the CM/ECF system of the United States District Court for the Northern District of Illinois, which constitutes service of the same.

/s/ Marc W. Martin

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