

1 JAMES S. THOMSON, ESQ. - SBN 79658
Law Offices of JAMES S. THOMSON
2 819 Delaware Street
Berkeley, CA 94710
3 (510) 525-9123
james@ycbtal.net

4 JOHN T. PHILIPSBORN, ESQ. - SBN 83944
5 Law Offices of JOHN T. PHILIPSBORN
507 Polk Street, Suite 350
6 San Francisco, CA 94102
(415) 771-3801
7 jphilipsbo@aol.com

8 Attorneys for Defendant DENNIS CYRUS, JR.

9

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,	)	Case No. CR-05-00324-MMC
14 Plaintiff,)	
15 vs.	)	CYRUS DEFENSE POST-
16 RAYMON HILL, et al.,	)	CONVICTION MOTION FOR
17 Defendants.	)	DISCOVERY OF INFORMATION
	)	AND EVIDENCE BEARING ON
	)	VALIDITY OF CONVICTIONS
	)	DEPENDING ON DRUG-RELATED
	)	EVIDENCE
)	
	)	Date: June 2, 2010
	)	Time: 2:30 P.M.
	)	Dept: Hon. Maxine M. Chesney,
	)	District Judge

20

21 TO: THIS HONORABLE COURT; TO WILLIAM FRENTZEN AND ROBERT REES,
22 ASSISTANT UNITED STATES ATTORNEYS:

23 PLEASE TAKE NOTICE THAT on Wednesday, June 2, 2010, at 2:30 PM,
24 on the Court's Criminal Calendar, DENNIS CYRUS, JR., will move for an Order for
25 disclosure of evidence and information bearing on the legal validity of the convictions that
26 he suffered as a result of the jury trial of charges contained in the redacted Indictment filed
27 in this matter on February 20, 2009 as Doc. 1222.

28 Specifically, Mr. Cyrus moves for disclosures and discovery as follows:

1 1. Evidence bearing on the believability or credibility of the testimony of any and
2 all drug identification analysts or criminalists who testified in this matter, including: Lois
3 Woodworth; Corbin Yem; Michael Tan; Debbie Madden; Daniel Lee; Francis Woo; Ralph
4 Whitten [hereafter SFPD drug analysts], and/or any other person who testified about drug
5 identification and/or drug weight arrived at as a result of analyses, bench work, chemical
6 testing, microscopic observations, instrumental analysis, and other laboratory procedures
7 effected at the SFPD Crime Laboratory.

8 2. Any statements taken from, or given by, the above-named SFPD drug analysts
9 either prior to, during, or since the conclusion of the trial of this matter bearing on SFPD
10 laboratory practices used in connection with the drug evidence in this case such as:
11 presumptive and confirmatory testing of suspected cocaine and/or cocaine base;
12 identification of MDMA (aka ecstasy) or other substances; microscopic and chemical
13 testing of suspected marijuana.

14 3. Any statement specifically attributed to analyst Debbie Madden which was
15 taken by peace officers or investigators on February 26, 2010, or at any other time since
16 1994, including during the investigation that led to proceedings against Ms. Madden in
17 San Mateo County, California, or any statement that Ms. Madden gave in any other
18 litigation, trials, hearings, depositions, or reported proceedings in state or federal courts
19 bearing on her practices as a drug evidence analyst.

20 4. Any statements, law enforcement interviews, depositions, testimony, tape
21 recorded interviews, sworn statements, affidavits, declarations, given by the above-named
22 analysts either prior to, during, or since the jury verdicts in the guilt phase of this case
23 (May, 2009) dealing with the subject of how suspected illegal (and legal) substances were
24 weighed by the drug and/or controlled substances unit of the SF Police Crime Laboratory,
25 including but not limited to any statements attributed to Debbie Madden by SF Police
26 Inspectors in 2010.

27 5. With respect to the above-named SFPD analysts, any statements made to the
28 ASCLD site visitors who issued a report in November, 2009; or statements made by

1 analyst Lois Woodworth or by any other of the above-named analysts to the auditing team
2 that participated in the late March, 2010 audit at the SF Crime Laboratory; and/or any
3 statements made to any other scientist, laboratory accrediting body, or investigative team
4 of the SFPD, or California Attorney General's office, or federal law enforcement agency
5 investigators (including lawyers) bearing on laboratory practices involving drug
6 identification, drug weight, and instrumental and balance calibration pertinent to this case
7 between the early 1990's and the end of 2009.

8 6. Any audit reports obtained by the Office of the U.S. Attorney, or any other
9 investigating agency that worked with the Office of the U.S. Attorney in the prosecution of
10 this case bearing on the reliability and validity of the laboratory practices testified to by
11 the above-named SFPD analysts, and pertinent to the DNA analysis unit of the SFPD.

12 7. Any interviews or statements taken by any law enforcement officers, now in the
13 hands of the Office of the U.S. Attorney or of any investigative agency including the
14 SFPD, which assisted in the investigation and prosecution of this matter bearing on the
15 credibility and believability of statements attributed to Ms. Madden since the allegations
16 of her illegal removal of cocaine evidence from the SFPD Crime Laboratory, including
17 but not limited to follow-up allegations attributed to Ms. Madden in a February, 2010
18 interview with SF Police Inspectors in which she allegedly discussed drug evidence
19 weights being off "tons of times"; discrepancies in drug weights; explanations of why drug
20 weight discrepancies were never reported; and the general sloppiness of work done in the
21 controlled substances/drug unit of the SF Crime Laboratory.

22 8. Statements taken by any federal investigators working under the supervision of
23 the Office of the U.S. Attorney, Northern District of California, or by any law enforcement
24 officers whose reports are subject to being provided to the Office of the U.S. Attorney on
25 request (whether the investigative agency is formally funded by the federal government, or
26 works pursuant to a memorandum of understanding, or to some other informal
27 arrangement with federal law enforcement agencies), which are relevant to an
28 understanding of the reliability and validity of SFPD Crime Laboratory drug identification

1 and drug weight methods, processes, and case work between 1990 and the end of 2009,
2 and to the validity and reliability of SFPD DNA analysis section work.

3 9. Any internal audits; commissioned or requested audits; internal investigative
4 documents; memoranda; or other writings bearing on the credibility of any of the above-
5 named analysts, and/or on the integrity, scientific validity and reliability of drug
6 identification and drug weight evidence as arrived at by the SFPD Crime Laboratory
7 between the early 1990's and the end of 2009.

8 10. Any personnel files; memoranda; job performance evaluations; bearing on the
9 professional competence, training, laboratory and work performance, courtroom
10 testimony, honesty, and believability of the above-named analysts including, but not
11 limited to, Debbie Madden.

12 11. A report of any criminal convictions of any of the above-named SFPD analysts,
13 including, but not limited to, Debbie Madden, and the case brought against Ms. Madden
14 by the District Attorney of San Mateo County between 2005 and 2009.

15 12. Any information, reports, audits, statements, memoranda, involving the work
16 of the SFPD Crime Lab DNA analysis section at or near the time of the DNA analysis of
17 suspected blood evidence done in this case, including reports of possible contamination of
18 samples.

19 13. Any information subject to disclosure to the defense under *Brady v. Maryland*,
20 373 U.S. 83 (1963) and *Kyles v. Whitley*, 514 U.S. 419 (1995) bearing on the legal validity
21 of the convictions obtained in this case, or on the believability, and credibility, of the
22 above-named SFPD analysts and/or the believability and/or credibility of any opinion
23 testified to by any of the above SFPD analysts, and of any representatives of the SFPD

24 //
25 //
26 //
27 //
28 //

1 DNA unit, including Julie Renfroe.

2 Dated: April 27th , 2010

3 Respectfully submitted,

4 JAMES S. THOMSON
5 JOHN T. PHILIPSBORN

6
7 By /s/ John T. Philipsborn
8 Attorneys for Defendant
9 DENNIS CYRUS, JR.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, Steven Gray, declare:
That I am over the age of 18, employed in the County of San Francisco, California, and not a party to the within action; my business address is Suite 350, 507 Polk Street, San Francisco, California 94102.

On today's date, I served the within document entitled:

CYRUS DEFENSE POST-CONVICTION MOTION FOR DISCOVERY OF INFORMATION AND EVIDENCE BEARING ON VALIDITY OF CONVICTIONS DEPENDING ON DRUG-RELATED EVIDENCE

- By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at San Francisco, CA, addressed as set forth below;
- By electronically transmitting a true copy thereof;
- By having a messenger personally deliver a true copy thereof to the person and/or office of the person at the address set forth below.

Robert Rees
William Frentzen
Assistant United States Attorneys
Office of the United States Attorney
450 Golden Gate Avenue, 11th Floor
San Francisco, CA 94102

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27th day of April, 2010, at San Francisco, California.

Signed: /s/ Steven Gray
Steven Gray