

EXHIBIT O

1 THE COURT: Court is back in session.

2 Be seated. Okay, Mr. Baker I believe was on
3 the witness stand.

4 MR. MAHONEY: He is.

5 THE COURT: Okay, Mr. Baker, have a seat you are
6 still under oath.

7 BEN BAKER,
8 resumed the stand, having been previously duly sworn,
9 was further examined and testified as follows:

10 CROSS-EXAMINATION

11 BY MR. LASKARIS:

12 Q Mr. Baker, you live at 527 East Browning,
13 correct?

14 A Yes.

15 Q That is a C.H.A. building, correct?

16 A Yes.

17 Q And back in you said July of 2004 you were
18 unemployed at that time?

19 A Yes.

20 Q And you are supporting yourself by selling
21 narcotics, correct?

22 A Yes.

23 Q And as of today you are still selling,
24 supporting yourself by selling narcotics?

1 A No.

2 Q When did you stop selling narcotics?

3 A Like Mother's Day like 2004.

4 Q Well, when is Mother's Day 2004?

5 A That is the day Sergeant Watts came out the
6 back between the two buildings 540 and 559 say he been
7 up all night, he broke, he ain't got no money, and
8 he's going to get my ass.

9 Q Okay. So prior to 2004 you supported
10 yourself by selling narcotics, correct?

11 A Yes.

12 Q Now, Officer Nichols you saw him testify on
13 the stand, correct?

14 A Correct.

15 Q You had never met him before, have you?

16 A Yes.

17 Q When was the first time you met him?

18 A Like 2005, early, early 2005.

19 Q So prior to March of 2005 you never met him
20 before, correct?

21 A Incorrect.

22 Q When did you meet him?

23 A Like early, early in the year of 2005.

24 Q Well, did he arrest you on that date?

1 A The first time I saw him?

2 Q Yes.

3 A No.

4 Q Did you see him since then, early of 2005?

5 A Yes.

6 Q Did he arrest you that date?

7 A No.

8 Q From January the 1st of 2005 to March of 2005
9 how many times have you seen Officer Nichols?

10 A A few times he detained me in the hallway
11 along with another group of people while they searched
12 the building.

13 Q So, his job was to search the building,
14 correct?

15 A I don't know what his job is.

16 Q Well, you seen Officer Nichols at that
17 building, correct?

18 A Yes.

19 Q You seen Officer Nichols do checks at that
20 building, correct?

21 A Usually when Officer Nichols come in the
22 building Sergeant Watts and AJ will go upstairs
23 leaving Officer Nichols and the rest of the team
24 downstairs while --

1 Q Okay, well let me ask about this.

2 So, you've seen Officer Nichols at the
3 building, correct?

4 A Yes.

5 Q Members of that team conduct checks of the
6 building, correct?

7 A I mean when they have us down in the hallway
8 I've seen them then, other than that I wouldn't know.

9 Q Okay. So, you've seen them at that building
10 conducting checks before, correct, yes or no?

11 A I've seen him --

12 Q Yes or no?

13 A I can't answer that question, I don't
14 understand it.

15 Q You have seen Officer Nichols, Sergeant
16 Watts, Officer Jones conducting checks at that
17 building, yes or no?

18 MR. MAHONEY: Judge, objection to the form of the
19 question as to exactly what a check is.

20 MR. LASKARIS:

21 Q You've seen them present in the building?

22 THE COURT: Sustained.

23 THE WITNESS: Yes, I've seen them in the
24 building.

1 MR. LASKARIS:

2 Q You've seen them go up the floors, correct?

3 A AJ and Watts.

4 Q And you've been detained before, correct?

5 A Yes.

6 Q January of 2005 up to March the 25th, 2005?

7 A March the 23rd.

8 Q March the 23rd you were never arrested,
9 correct?

10 A Correct.

11 Q Now, Officer Jones how many times have you
12 seen Officer Jones?

13 A Several.

14 Q From March -- excuse me, from January of '05
15 to March the 23rd of '05 how many times have you seen
16 him?

17 A Several.

18 Q Several times, correct?

19 A Yeah.

20 Q And some of those times you've been alone,
21 correct?

22 A I can't say that.

23 Q Well, where have you seen them?

24 A Either I'm standing outside the building or

1 on the side of the building or in the lobby or I might
2 be coming out the apartment and they already in the
3 building.

4 Q Okay. So, you've seen them in the building,
5 correct?

6 A Yes.

7 Q They never arrested you then for narcotics,
8 did they?

9 A No.

10 Q They never found 110 bags and place them on
11 you as you're saying, did they?

12 A What?

13 Q They never arrested you and charged you with
14 110 bags, did they?

15 A Yeah, they did on March the 23rd.

16 Q I'm saying prior to March the 23rd?

17 A Yeah.

18 THE COURT: You said "they" are you talking
19 about --

20 MR. LASKARIS:

21 Q Officer Jones.

22 A Officer Jones?

23 Q Yes.

24 A Yeah, he did the paperwork on the mailbox

1 case but that was 2004.

2 Q Okay. I was talking about January of 2005
3 to March the 23rd of 2005 when Officer Jones had seen
4 you in the building you were never charged with
5 narcotics, correct?

6 A Correct.

7 Q Now, let's talk about March the 23rd, 2005.
8 You said you were coming from what floor?

9 A Sixth.

10 Q You live on the 2nd floor, correct?

11 A Yes.

12 Q And on that day you had money on you,
13 correct?

14 A Correct.

15 Q You had \$819 worth of currency on you at that
16 time?

17 A Yes.

18 Q And as you're walking down the stairs it was
19 two other individuals, correct?

20 A No, I was alone, they were standing on the
21 third floor landing.

22 Q On the third floor landing there were two
23 other individuals when the police came, is that
24 correct?

1 A Yes, as I stepped down to the third floor
2 landing he came out the hall.

3 Q And by he you mean Officer Nichols, correct?

4 A Yes, yes.

5 Q And Officer Nichols at that time you said had
6 his gun drawn?

7 A Yes.

8 Q Was he by himself?

9 A Yes.

10 Q And he announced his office?

11 A No.

12 Q What did he do?

13 A He say y'all come out the stairwell, put your
14 hands on the wall in the hallway.

15 Q Again he was by himself, correct?

16 A Yes.

17 Q No backup arrived at that scene, correct?

18 A Correct.

19 Q No backup ever arrived until everybody ran,
20 correct?

21 A His partner was downstairs all the time.

22 Q I said no backup ever arrived upstairs and
23 there were three individuals, correct?

24 A Correct.

1 MR. MAHONEY: Again I object to the form of the
2 question, I don't know if this individual knows what
3 backup is.

4 MR. LASKARIS: Well, nobody else ever arrived.

5 THE COURT: If he doesn't understand it he can
6 tell you.

7 Overruled.

8 MR. LASKARIS:

9 Q So, the officer was with three individuals.
10 Is this a darken stairwell?

11 A No.

12 Q It is a lit area, correct?

13 A Correct.

14 Q And there are a lot of narcotics in that
15 building, correct?

16 A There are narcotic sells going on, yes.

17 Q And that is a pretty dangerous building you
18 would say, correct?

19 You live in that building, right?

20 A Well, yeah, there has been some shootings as
21 of late, yes.

22 Q And when the officer by himself told you to
23 come out of the stairwell everybody ran, correct?

24 A No, we all went and got on the wall. Then

1 BayBay ran so I ran.

2 Q Okay. Now, when you say BayBay ran?

3 A Yeah.

4 Q The officer didn't chase him, correct?

5 A Correct.

6 Q Now, BayBay, have you been with BayBay for a
7 while, have you known him for a while?

8 A Yes, I've known him for a while.

9 Q How long have you known BayBay?

10 A Since like '98.

11 Q And what is his real name, do you know?

12 A Gregory Young.

13 Q And?

14 THE COURT: What is his name?

15 THE WITNESS: Gregory Young.

16 THE COURT: Gregory Young.

17 MR. LASKARIS:

18 Q And you've known him from selling narcotics?

19 A No, he stayed on the first floor in the
20 building.

21 Q Again do you know him from selling narcotics?

22 A I mean he has sold, yes, I've seen him sell.

23 Q You've seen him sell narcotics?

24 A Yes.

1 Q Now, you say BayBay ran, Officer Nichols
2 never chased BayBay, did he?

3 A No. I ran behind BayBay and he say he came
4 behind me.

5 Q Okay. What did -- did you run in the same
6 direction as BayBay?

7 A Yeah, until we got to the first floor.

8 Q And Officer Nichols chased you, correct?

9 A Well, he came out once his partner put me in
10 the car so I don't know if he was up there --

11 Q Let me ask you a question.

12 When you ran, when you ran down the stairs
13 did Officer Nichols chase you?

14 A I mean he came down but I didn't look behind
15 to see him behind me.

16 Q Let me ask you again.

17 When you ran down the stairwell was Officer
18 Nichols behind you?

19 A No.

20 Q When is the first time that you saw Officer
21 Nichols after you went downstairs?

22 A Once I was in handcuffs in the back of the
23 squad car.

24 Q Now, when you went downstairs how many

1 officers were downstairs?

2 A One.

3 Q And that would be Officer Leano?

4 A Yeah, Manny, a little short Chinese guy.

5 Q Have you ever seen him before?

6 A Yes.

7 Q How many times?

8 A A few times. He is Nichols' partner, they
9 are always in the car together.

10 Q You've seen him a few times?

11 A Yes.

12 Q And from July or, excuse me, January 1 of
13 2005 to March the 23rd of 2005 you've seen Officer
14 Leano, correct?

15 A Yes.

16 Q He never detained you, has he?

17 A Yeah.

18 Q Has he ever arrested you?

19 A No.

20 Q First time he arrested you was on
21 March the 23rd of 2005, or present for the arrest,
22 correct?

23 A Yes.

24 Q Now, you know a person by the name of Officer

1 Gonzalez?

2 A Yes.

3 Q And how do you know him?

4 A Because he has arrested me before.

5 Q Has he arrested you before?

6 A Yes.

7 Q Was he downstairs in the lobby?

8 A At March the 23rd, no.

9 Q Was he ever on the scene?

10 A No.

11 Q Do you know a person by the name of Officer,
12 well I'll rephrase it.

13 Now, Officer Gonzalez, you've dealt with him
14 beforehand?

15 A Yes, he used to be in the blue and white in
16 the van.

17 Q Okay. And you did not see him on
18 March the 23rd, 2005, correct?

19 A At the police station, yeah.

20 Q Had you seen him prior to that?

21 A That day?

22 Q Yes.

23 A No.

24 Q How many officers arrived on the scene?

1 A It was just Officer Nichols and his partner
2 Manny was downstairs, DeAndre whatever.

3 Q And you said Officer Nichols had his gun
4 drawn?

5 A Yes, when he entered the hall, yes.

6 Q When Officer Nichols had his gun drawn on the
7 third floor did Twanie run?

8 A No, Twanie was behind like over to this side
9 the furthest from the stairwell.

10 Q Did he run?

11 A I don't know, I know I ran behind BayBay so I
12 don't know. He couldn't have ran because it took
13 Nichols a while to come down the stairs so he had to
14 detain him.

15 Q You're not sure exactly what Twanie did,
16 correct?

17 A Correct.

18 Q Now, when Officer Nichols came down the
19 stairs you said he had drugs on him?

20 A Yeah.

21 Q How many bags?

22 A Two.

23 Q These bags, did you see how many bags are in
24 there, is it two separate bags?

1 A Yeah, but he had them in one hand.

2 Q And you knew the \$819 that was found on your
3 pocket, correct?

4 A Yes.

5 Q There was a custodial search back on -- there
6 was a search on the scene, correct?

7 A Yeah.

8 Q And Officer Nichols performed that search on
9 the scene?

10 A No, Manny, Manny his partner searched me.

11 Q Now, you said --

12 Now, back at the station you were in a room
13 being interviewed, correct?

14 A Yeah, in the tac team room, yeah.

15 Q You were in a tac team room?

16 A I wasn't being interviewed they were doing
17 the paperwork.

18 Q Okay. Now, you said they were doing the
19 paperwork, who was doing the paperwork?

20 A Well, Nichols started the paperwork and Manny
21 does some of it, then Alvin Jones, then Gonzalez and
22 his partner they all added something.

23 Q Now, you said did you actually see Officer
24 Jones type the report?

1 A Yes, I saw all of them type individually pass
2 the paper on.

3 Q So, who is the first person to start typing?

4 A Officer Nichols.

5 Q Who was the second person to start typing?

6 A Manny.

7 Q Who was the third person to start typing?

8 A Gonzalez.

9 Q And who was the fourth person to start
10 typing?

11 A AJ.

12 Q Did anybody else type the report?

13 A Gonzalez' partner Barton, Burton the one with
14 the glasses.

15 Q What is his name?

16 A They say they were showing him how to do it
17 right, they didn't want him to make no mistakes.

18 Q And when they were typing the report you were
19 right there, correct?

20 A Yeah.

21 Q And when you saw them typing the report they
22 are close to you?

23 A Like I'm handcuffed to the wall like this and
24 then there is a desk right here that's where Officer

1 Nichols was sitting at.

2 Q Okay. He is the first one and then Officer
3 Leano started?

4 A Yes.

5 Q And they all took turns typing the report,
6 you saw that, correct?

7 A Yes.

8 Q Now, let's talk about --

9 You were Mirandized, correct, you were given
10 your rights?

11 A No.

12 Q At any time that day were you given your
13 rights?

14 A No.

15 Q Did they tell you why you were being
16 arrested?

17 A Yeah.

18 Q Why were you being arrested?

19 A They said I was being -- they were charging
20 me with the drugs that he came out the building with.

21 Q Did you say anything when they said they were
22 charging you with the drugs?

23 A I said: Nah, y'all can't charge me with
24 those drugs.

1 Q Now, when Officer Nichols came down as you
2 say --

3 Well, when you were being detained you were
4 brought out to the car, correct?

5 A Yes.

6 Q And at that time Sergeant Watts and Officer
7 Jones arrived on the scene, correct?

8 A No. They arrived at the scene once we
9 pulled from the building and was exiting the fire lane
10 they were coming down Browning.

11 Q Okay. So about what five, ten minutes after
12 you are being pulled away is when Officer Jones and
13 Sergeant Ross arrived on the scene?

14 A No, it was like two minutes, if two minutes.

15 Q Okay. So from the time you were detained
16 until the time Officer Jones arrived on the scene was
17 two minutes, correct?

18 A Oh, first you said from the time we were
19 pulling away from the building.

20 Q No, from the time you were detained until the
21 time you saw Officer Jones arrive on the scene how
22 long did it take?

23 A Yeah, that was about five minutes.

24 Q There were present when Officer Nichols

1 approached you. He didn't see them present when
2 Officer Nichols approached you on the stairwell, did
3 you?

4 A No.

5 Q Now, you said you were coming from the
6 sixth floor?

7 A Yes.

8 Q Who is on the sixth floor?

9 A This girl named Dameka.

10 Q Pardon?

11 A This lady named Dameka stay up on the
12 sixth floor.

13 Q And where were you going?

14 A I was going out the building.

15 Q To do what?

16 A Go buy my mother a gift for her birthday.

17 Q And when is your mother's birthday?

18 A March the 23rd.

19 Q What is your mother's name?

20 A Yvonne Baker.

21 Q Yvonne Baker?

22 A Yeah, Yvonne Baker, B-a-k-e-r. Yvonne with
23 a "Y".

24 Q And where does she live?

1 A 15th and Wabash.

2 Q Now, let's go back again to when the police
3 had their gun drawn. BayBay ran, correct?

4 A Yes.

5 Q Then you ran?

6 A Yes.

7 Q You made it all the way down to the lobby?

8 A Yes.

9 Q BayBay wasn't detained, was he?

10 A No, BayBay went out to the back.

11 Q Well, all the stairwells go down to the
12 lobby, correct?

13 A Yeah, both stairwells go down to the lobby.

14 Q And when you went down to the lobby there was
15 an officer down there, correct?

16 A Yeah, when I turned and went to the front
17 yeah. But if I went to the back with BayBay there
18 wouldn't have been an officer there.

19 Q So now you are not following BayBay, correct?

20 A BayBay went one way once we got on the first
21 floor and I went the other way.

22 Q Well you followed him all the way down,
23 correct?

24 A Yeah.

1 Q BayBay went pass the second floor, correct?

2 A Yes.

3 Q You followed him, correct?

4 A Yeah.

5 Q BayBay went pass the first floor, you
6 followed him, correct?

7 A No. When we get to the first floor you can
8 only go either out the back or out the front.

9 Q And that's where BayBay wasn't arrested, was
10 he?

11 A Because no officer was there.

12 Q In fact, you were the only one that was
13 detained, correct?

14 A Yes, but the officer told you he didn't chase
15 nobody but me.

16 Q You are the only person that was detained,
17 correct?

18 A Yes.

19 Q Now, Twanie, is that his name Twanie?

20 A Yes.

21 Q How long have you known him?

22 A I really don't even know him. I just know
23 that's his name, that's what they call him.

24 Q Okay. He sells drugs in that building,

1 correct?

2 A He has.

3 Q And you know that, correct?

4 A Yes.

5 Q You know everybody has been arrested for
6 selling drugs in the building?

7 A No, I don't know.

8 Q The only person who spoke to you after your
9 arrest was Officer Jones, correct?

10 A In the car at the time, yes.

11 Q You never saw, or Officer Watts, Sergeant
12 Watts never spoke with you on March the 23rd, 2005,
13 correct?

14 A Yes, once we got to the police station. He
15 didn't say nothing to me until we got to the police
16 station.

17 Q Pardon?

18 A Not until we got to the police station.

19 Q Well, what did he tell you at the police
20 station?

21 A He said well if I had knew you were some kin
22 to Bat I would have gave him this one.

23 Q And kin to Bat means nephew?

24 A Yeah, but I am not any kin to Bat, my girl

1 is. Well that is her father's friend for a long
2 time.

3 MR. LASKARIS: One moment, Judge.

4 Q Now, regarding Sergeant Watts on prior
5 occasions you say that they busted into your room,
6 correct.

7 You said some people, police officer came
8 into your house?

9 A Yes, she opened the door though.

10 Q Who was present at that time?

11 A Me, Elgin Moore, and Clarissa Glenn on that
12 occasion.

13 Q And when did that happen?

14 A This was like July the 17th of '04.

15 Q Now, at that time was Officer Nichols
16 present?

17 A No.

18 Q Was Officer Leano present?

19 A No.

20 Q Now, at that time you weren't arrested,
21 correct?

22 A Yes, I was.

23 Q And what were you arrested for?

24 A Some stuff they got out of the mailbox like a

1 month ago, a little shorter than a month, it was like
2 June 12th or June -- yeah, sometime in June and they
3 arrested me for it July.

4 THE COURT: All right, what year are you talking
5 about?

6 THE WITNESS: '04.

7 MR. LASKARIS: '04.

8 THE COURT: You say you were arrested in July or
9 in June?

10 THE WITNESS: I was arrested in July, they got
11 the stuff out of the mailbox in June of '04.

12 MR. LASKARIS:

13 Q Now, that case, there was a motion heard on
14 that case, correct?

15 A Yes.

16 Q You were present for that motion, correct?

17 A Yes. Well, actually trial had started.
18 The trial was stopped and the motion was set, a date
19 for motion was set.

20 Q There was a motion set, right?

21 A Yes.

22 Q Correct.

23 And only after that motion was the case
24 dismissed, correct?

1 A Correct.

2 Q The state's attorney didn't walk in and then
3 in the motion and say hey we are dismissing your case,
4 did they?

5 A No.

6 MR. LASKARIS: Nothing further, Judge.

7 THE COURT: Anything else?

8 MR. MAHONEY: Very briefly.

9 REDIRECT EXAMINATION

10 BY MR. MAHONEY:

11 Q Mr. Baker, in response to one of the state's
12 questions you made the statement that the officer told
13 you that he wasn't chasing anybody but you, is that
14 correct?

15 A That is what the officer said on the stand
16 today.

17 Q And that was Officer Nichols?

18 A Yes.

19 Q Now, you were asked about running and when
20 you got to the first floor you say BayBay went out the
21 back and you went out the front, is that correct?

22 A Yes.

23 Q And you ran into Officer Manny, is that
24 correct?

1 A Yes.

2 Q Did you stop?

3 A Yes.

4 Q Did Officer Manny have his gun drawn?

5 A No.

6 Q Did you have a bag of drugs in your hand?

7 A No.

8 Q So, if --

9 So, he told you to stop and you stopped, is
10 that correct?

11 A Yeah, he just put his hand up like that.
12 (Indication.). And I stopped.

13 MR. MAHONEY: Nothing further, Judge.

14 THE COURT: All right, you may stand down.

15 MR. LASKARIS: Judge,

16 (Witness excused.)

17 MR. MAHONEY: The defense rest.

18 THE COURT: You rest?

19 MR. MAHONEY: I rest.

20 (Defense rest.)

21 THE COURT: Yes.

22 MR. LASKARIS: Judge, at this time I can call two
23 officers, Sergeant Watts is not here but I can call
24 two officers for rebuttal at this time.