

# Exhibit 9

1 STATE OF ILLINOIS )  
2 COUNTY OF COOK ) SS:

3 IN THE CIRCUIT COURT OF COOK COUNTY  
4 COUNTY DEPARTMENT - CRIMINAL DIVISION

5 PEOPLE OF THE )  
6 STATE OF ILLINOIS, )  
7 Plaintiff, )  
8 vs. ) Case No. 09 CR 20361-02  
9 ROBERT LINDSEY, )  
Defendant. )

10 REPORT OF PROCEEDINGS had in the  
11 above-entitled cause, before the HONORABLE  
12 LAWRENCE E. FLOOD, Judge of said Court, on the  
13 22nd day of September, 2010.

14 APPEARANCES:

15 HON. ANITA ALVAREZ,  
16 State's Attorney of Cook County,  
17 BY: MR. ROBERT S. SCHWARZ,  
Assistant State's Attorney,  
appeared on behalf of the People;

18 HON. ABISHI C. CUNNINGHAM, JR. (Ret.)  
19 Public Defender of Cook County,  
20 BY: MS. NAOMI BANK,  
Assistant Public Defender,  
appeared on behalf of Robert Lindsey.

21  
22 Sharon E. Thompson, CSR 084-004429  
23 Official Court Reporter  
24 2650 S. California, Room 4-C02  
Chicago, Illinois 60608

1 THE CLERK: Robert Lindsey.

2 MS. BANK: Hello, Judge. Naomi Bank appearing on  
3 behalf of Robert Lindsey. Judge, the parties have  
4 reached an agreement subject to the Court's  
5 approval.

6 THE COURT: What's the agreement?

7 MR. SCHWARZ: Judge, we do have an agreement,  
8 which I believe necessitates me making an amendment  
9 to the information, striking the intent to deliver  
10 language, making it a Class 4 possession of a  
11 controlled substance in violation of Act 5, 7402C.  
12 Our agreement is for two years in the Illinois  
13 Department of Corrections.

14 THE COURT: How many days credit?

15 MS. BANK: Judge, 342 days.

16 THE COURT: I think that pretty much covers the  
17 fines and fees.

18 MR. SCHWARZ: I think it does.

19 THE COURT: No objection to the amendments.  
20 Waive re-swearing.

21 MS. BANK: Thank you, Judge.

22 THE COURT: 402C. Okay. Mr. Lindsey, you heard  
23 what's been represented to the Court. It's my  
24 understanding that there is a plea agreement between

1 the State's Attorney and the Public Defender. The  
2 charge has been amended now to a Class 4 felony,  
3 possession of a controlled substance. Based upon  
4 this plea agreement, do you wish to withdraw your  
5 plea of not guilty and enter a plea of guilty to the  
6 amended charge of possession of a controlled  
7 substance?

8 THE DEFENDANT: Yes.

9 THE COURT: You got to speak up.

10 THE DEFENDANT: Yes.

11 THE COURT: You understand by pleading guilty you  
12 give up certain rights. Most importantly you give up  
13 your right to a trial by jury. Do you understand  
14 that a trial by jury is a trial where 12 persons are  
15 chosen to hear the evidence and make a determination  
16 regarding guilt or innocence? Do you understand  
17 that?

18 THE DEFENDANT: Yes.

19 THE COURT: I have been tendered an executed  
20 waiver of trial by jury. Did you sign this document?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand by signing that  
23 document, you formally give up your right to trial by  
24 jury? You understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: You also understand if you plead  
3 guilty, you give up the right to have any trial at  
4 all, including a trial before this Court? And that  
5 includes a right to see and hear the witnesses  
6 testify against you, cross examine those witnesses,  
7 present any evidence you may have or remain silent,  
8 say nothing and require the State to prove you guilty  
9 beyond a reasonable doubt and not have your silence  
10 considered in making that determination. Do you  
11 understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: You also understand that the range of  
14 sentence on a Class 4 felony in Illinois is anywhere  
15 from 1 to 7 years in the Illinois Department of  
16 Corrections with a one year period of mandatory  
17 supervised release, a fine up to \$25,000 and up to  
18 30 months probation or conditional discharge. That's  
19 the range of sentence. Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: Aside from the plea agreement, has  
22 anyone threatened you or promised you in any way to  
23 get you to plead guilty?

24 THE DEFENDANT: No.

1           THE COURT:   You're pleading guilty of your own  
2 free will?

3           THE DEFENDANT:   Yes.

4           THE COURT:   You understand I am not bound by the  
5 plea agreement between the State's Attorney and your  
6 attorney? Do you understand that?

7           THE DEFENDANT:   Yes.

8           THE COURT:   Factual basis.

9           MR. SCHWARZ:   Your Honor, if this matter were to  
10 proceed to trial, the State would present evidence to  
11 show that on October 15th of 2009 at approximately  
12 10 o'clock in the morning in the area of  
13 4210 S. Prairie, Chicago Police Officers were on  
14 narcotics surveillance. At that time they observed  
15 certain conduct between the defendant and another  
16 co-offender, Germin Sims.

17                   At that time, as they approached, they had  
18 the defendant, Lindsey, exit the vehicle. As he did  
19 so, he dropped a bag to the driver's side floor of  
20 the vehicle. The officer recovered that bag, found  
21 it to contain 13 smaller Ziploc baggies with suspect  
22 heroin. That was sent to the Illinois State Police  
23 Crime Laboratory after the officers had properly  
24 inventoried it with the Chicago Police Department.

1           It was subsequently tested by Karina Cox, a  
2 forensic psychiatrist at the Illinois State Police  
3 Crime Lab. She found six of the packages to contain  
4 1.2 grams of heroin. All these events occurred in  
5 Chicago, Cook County, Illinois.

6           THE COURT: So stipulated?

7           MS. BANK: Yes.

8           THE COURT: Let the record reflect the defendant  
9 understands the nature of the charges against him,  
10 possible penalties, his rights under the law. I find  
11 his plea has been made freely and voluntary and a  
12 factual basis exists for the plea. The plea will be  
13 accepted and there will be a finding of guilty to the  
14 amended charge of possession of a controlled  
15 substance.

16           You are entitled to a Pre-sentence  
17 Investigation. By waiving that -- I will hear  
18 aggravation and mitigation. Aggravation.

19           MR. SCHWARZ: Judge, if I may just have a moment.

20                           (A short break was taken.)

21           MR. SCHWARZ: Your Honor, we will rest on our  
22 agreement. With regard to the defendant's prior  
23 criminal history, he has a total of three prior  
24 felony convictions; a 2007 PCS with intent, Class 1,

1 four years IDOC; 1998 he got a Class 1 PCS with  
2 intent for which he received five years in the  
3 Department of Corrections, and he also had a UUW  
4 charge from 1998, Class 3, for which he received  
5 three years in the Illinois Department of  
6 Corrections.

7 MS. BANK: Judge, we rest on the agreement.

8 THE COURT: Anything you wish to say?

9 THE DEFENDANT: I wanted to ask a question. You  
10 know, I got another -- I was on parole, right? And  
11 you know, my parole board people, they call to the  
12 police station and ask what the defendant was locked  
13 up for. Now for some reason on this paper I wanted  
14 to show you, if you mind looking at it --

15 THE COURT: Did you show it to your attorney?

16 MS. BANK: He did, Judge. It's a parole  
17 violation paper that lists the basis -- the summary  
18 of why the person was arrested, their inconsistencies  
19 in that document with the police officer's report;  
20 however, this is a report that's authored by a parole  
21 officer who may have gotten things wrong or mixed up.  
22 That person was not a witness to the event.

23 THE COURT: They don't have any personal  
24 knowledge --



1 MS. BANK: Correct.

2 THE COURT: They don't have any personal  
3 knowledge of what happened, other than what somebody  
4 told them, right?

5 THE DEFENDANT: Well, they say it was faxed to  
6 them from the police station.

7 THE COURT: I don't know. Here, the bottom line  
8 is this --

9 THE DEFENDANT: I am getting confused. I  
10 understand this is State too and I understand that's  
11 the State too.

12 THE COURT: Look, you don't have to plead guilty  
13 if you don't want to.

14 THE DEFENDANT: No, I am just saying if it's gone  
15 be a fair game, just keep it fair to me because  
16 sometimes, you know, -- I am kind of like disability  
17 and I just don't want to be --

18 THE COURT: Like what?

19 THE DEFENDANT: Disability.

20 MS. BANK: Disabled.

21 THE COURT: How are you disabled?

22 THE DEFENDANT: Not that good in reading and  
23 stuff or sometimes I don't be -- This my twice time  
24 just jumping out the window, just giving up my rights

1 and then, you know, --

2 THE COURT: Just jumping out the window?

3 THE DEFENDANT: Like saying when I did this and  
4 then turn around to I be hurt at the end of the ball  
5 game because I didn't do it.

6 THE COURT: Here's what I am going to do: I  
7 don't know if I am going to take the plea today on  
8 him.

9 MS. BANK: Judge, I have spoken to Mr. Lindsey.

10 THE DEFENDANT: No, we gone take this plea.

11 THE COURT: Wait, sir. Let your attorney  
12 speak.

13 MS. BANK: I spoke with Mr. Lindsey on several  
14 different occasions with regards to trial or not. He  
15 actually asked me about approaching the State's  
16 Attorneys for a resolution in this matter. Based on  
17 his representations to me, I approached the State's  
18 Attorney to begin re-negotiations on this matter.

19 We have had communication by way of mail  
20 while he has been housed in the Illinois Department  
21 of Corrections. He's aware of what is required of  
22 him in terms of time, continued time in custody until  
23 parole. I feel he's fully aware of things. He is  
24 making an educated decision. It's just that he feels

1 a little bit sad that he is not going to be released  
2 from custody immediately.

3 THE COURT: Is that correct, sir?

4 THE DEFENDANT: Yeah, that is correct.

5 THE COURT: So with that in mind, as I said, you  
6 know you are not required to plead guilty on this.  
7 You understand that, right? You have to say yes or  
8 no?

9 THE DEFENDANT: Yes.

10 THE COURT: So what do you want to do, do you  
11 still want to go through with this plea?

12 THE DEFENDANT: I will stick with my attorney.

13 THE COURT: Okay. Based upon the representations  
14 of Counsel regarding her contacts with the defendant  
15 and the statement to the Court, he's made an  
16 allocution to the Court. I am going to go along with  
17 the plea agreement then. And the plea of guilty is  
18 two years Illinois Department of Corrections with a  
19 one year period of mandatory supervised release. I  
20 am giving you credit for 342 days of incarceration.  
21 And that zeroes out your fines and court costs.

22 Now, sir, I want you to understand that even  
23 though you have pled guilty, you do have the right to  
24 appeal. In order to appeal, you must within 30 days

1 of today's date file with this Court a written motion  
2 asking the Court to either reconsider the sentence  
3 being entered here today or asking leave to withdraw  
4 your plea of guilty.

5 If the motion is granted, the plea of  
6 guilty, sentence and judgement will be vacated and a  
7 trial date will be set in this case. If you could  
8 not afford an attorney for the appeal, one will be  
9 provided for you as well as copies of the transcripts  
10 which resulted in your plea of guilty and sentence.  
11 However, you must understand if you fail or forget to  
12 put something in your petition for the Court to  
13 reconsider in its sentence or in vacating your plea,  
14 it's waived or given up for all times. Do you  
15 understand what I just advised you?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right then. Mitt to issue. Good  
18 luck to you, sir.

19 THE DEFENDANT: All right.

20 (WHICH WERE ALL THE PROCEEDINGS  
21 HAD IN THE ABOVE-ENTITLED CAUSE.)  
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1     STATE OF ILLINOIS     )  
2     COUNTY OF COOK       )     SS:

3  
4     IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
5     COUNTY DEPARTMENT - CRIMINAL DIVISION

6             I, SHARON E. THOMPSON, Official Court  
7     Reporter of the Circuit Court of Cook County,  
8     Criminal Division, do hereby certify that I reported  
9     in shorthand the proceedings had on the hearing in  
10    the aforementioned cause; that I thereafter caused  
11    the foregoing to be transcribed into typewriting,  
12    which I hereby certify to be a true and accurate  
13    transcript of the Report of Proceedings had before  
14    the HONORABLE LAWRENCE E. FLOOD, Judge of said court.

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16                             \_\_\_\_\_  
17                             Official Court Reporter  
18                             CSR No. 084-004429  
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23     Dated this 27th day of March, 2021.  
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