

No. 13-212

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In the Supreme Court of the United States

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UNITED STATES OF AMERICA, PETITIONER

*v.*

BRIMA WURIE

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ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

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JOINT APPENDIX

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PETITION FOR A WRIT OF CERTIORARI FILED: AUG. 15, 2013  
CERTIORARI GRANTED: JAN. 17, 2014

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UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

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Docket No. 11-1792

UNITED STATES OF AMERICA, APPELLEE

*v.*

BRIMA WURIE  
(FEDERAL PRISONER: 24753-038),  
DEFENDANT-APPELLANT

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**DOCKET ENTRIES**

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<b>DATE</b>	<b>PROCEEDINGS</b>
7/14/11	CRIMINAL CASE docketed. Notice of appeal (doc. #83) filed by Appellant Brima Wurie. Docketing Statement due 07/28/2011. Transcript Report/Order form due 07/28/2011. Appearance form due 07/28/2011. [11-1792] (AS)
* * * * *	
5/22/12	BRIEF tendered by Appellant Brima Wurie. Certificate of service dated 05/22/2012. [11-1792] (IG)
5/22/12	APPENDIX filed by Appellant Brima Wurie. Number of volumes: 1. Number of copies: 5. Certificate of service dated 05/22/2012. [11-1792] (RL)

**DATE PROCEEDINGS**

- 5/22/12 MOTION for leave to file sealed supplemental appendix filed by Appellant Brima Wurie. Certificate of service dated 05/22/2012. [11-1792] (AS)
- 5/23/12 APPELLANT'S BRIEF filed by Appellant Brima Wurie. Certificate of service dated 05/22/2012. Brief due 06/25/2012 for appellee United States. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 05/30/2012. [11-1792] (RL)
- 5/23/12 PLEADING tendered: Sealed supplemental appendix (6) copies (presentence report and statement of reasons) filed by Appellant Brima Wurie. Certificate of service dated 05/22/2012. [11-1792] (RL)
- 5/23/12 ORDER granting motion to file sealed supplemental appendix filed by Appellant Brima Wurie. [11-1792] (AS)
- 5/23/12 SEALED SUPPLEMENTAL APPENDIX filed by Appellant Brima Wurie. Number of volumes: 1. Number of copies: 5. Certificate of service dated 05/22/2012. [11-1792] (AS)
- \* \* \* \* \*
- 8/9/12 BRIEF tendered by Appellee US. Certificate of service dated 08/09/2012. [11-1792] (KBL)

**DATE PROCEEDINGS**

8/10/12 APPELLEE'S BRIEF filed by Appellee US. Certificate of service dated 08/09/2012. Reply brief due 08/27/2012 for appellant Brima Wurie. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 08/17/2012. [11-1792] (RL)

\* \* \* \* \*

10/31/12 CASE calendared: Tuesday, 12/04/2012 Boston, MA Panel Courtroom. Designation form due 11/14/2012. [11-1792] (LM)

\* \* \* \* \*

12/4/12 CASE argued. Panel: Jeffrey R. Howard, Appellate Judge; Norman H. Stahl, Appellate Judge and Kermit V. Lipez, Appellate Judge. Arguing attorneys: Ian Gold for Brima Wurie and Michael R. Dreeben for US. [11-1792] (LM)

12/7/12 CITATION of supplemental authorities pursuant to Fed. R. App. P. 28(j) filed by Appellee US. Certificate of service dated 12/07/2012. [11-1792] (KBL)

5/17/13 OPINION issued by Jeffrey R. Howard, Appellate Judge; Norman H. Stahl, Appellate Judge and Kermit V. Lipez, Appellate Judge. Published. [11-1792] (AS)

**DATE PROCEEDINGS**

5/17/13 JUDGMENT entered by Jeffrey R. Howard, Appellate Judge; Norman H. Stahl, Appellate Judge and Kermit V. Lipez, Appellate Judge. 11-1792 Reversed [11-1792] (AS)

\* \* \* \* \*

5/20/13 ERRATA to opinion (published) [5734396-2] filed. [11-1792] (SBT)

\* \* \* \* \*

7/16/13 PETITION for rehearing en banc filed by Appellee US. Certificate of service dated 07/16/2013. [11-1792] (KBL)

7/16/13 MOTION to clarify *the Judgment* filed by Appellee US. Certificate of service dated 07/16/2013. [11-1792] (KBL)

\* \* \* \* \*

7/29/13 ORDER entered by Sandra L. Lynch, Chief Appellate Judge; Juan R. Torruella, Appellate Judge; Norman H. Stahl, Appellate Judge; Kermit V. Lipez, Appellate Judge; Jeffrey R. Howard, Appellate Judge; Rogeriee Thompson, Appellate Judge and William Joseph Kayatta , Jr., Appellate Judge denying petition for rehearing en banc filed by Appellee US. [11-1792] (AS)

**DATE      PROCEEDINGS**

- 8/2/13      ORDER entered by Jeffrey R. Howard, Appellate Judge; Norman H. Stahl, Appellate Judge and Kermit V. Lipez, Appellate Judge. The Government's unopposed motion seeking clarification of the court's May 17, 2013 judgment is granted. The court's judgment vacates the defendant's convictions only on counts I and III of the indictment. The conviction on count II stands. [11-1792] (GK)
- 8/3/13      MOTION to stay *Mandate for 90 Days* filed by Appellee US. [11-1792] (DMC)
- 8/7/13      MOTION to reconsider *the Court's Order Granting the Government's Motion to Clarify the Judgment* [5753390-2], [5748836-2] filed by Appellant Brima Wurie. Certificate of service dated 08/07/2013. [11-1792] (IG)

**DATE PROCEEDINGS**

- 8/19/13 ORDER entered by Norman H. Stahl, Appellate Judge: Upon consideration of the Government's unopposed motion to stay the mandate, the motion is granted. The issuance of mandate is hereby stayed until disposition of the petition for writ of certiorari now pending with the United States Supreme Court. Should the petition for writ of certiorari be denied, mandate shall issue forthwith. The Government is directed to promptly notify the Clerk of this court of the Supreme Court's decision on the pending petition for writ of certiorari. [11-1792] (AS)
- 8/28/13 U.S. SUPREME COURT NOTICE advising a petition for a writ of certiorari was filed on 08/15/2013 and assigned case number 13-212. [11-1792] (AS)
- 8/30/13 ORDER entered by Jeffrey R. Howard, Appellate Judge; Norman H. Stahl, Appellate Judge and Kermit V. Lipez, Appellate Judge denying motion to reconsider filed by Appellant Brima Wurie. [11-1792] (AS)
- 1/27/14 LETTER regarding *grant of petition for writ of certiorari* filed by Attorney Kelly Begg Lawrence for Appellee US. Certificate of service dated 01/27/2014. [11-1792] (KBL)

\* \* \* \* \*



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
(Boston)

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Criminal Docket for Case No.: 1:08-cr-10071-RGS-1

UNITED STATES OF AMERICA, PLAINTIFF

*v.*

BRIMA WURIE, DEFENDANT

---

**DOCKET ENTRIES**

DATE	DOCKET NUMBER	PROCEEDINGS
3/27/08	1	INDICTMENT as to Brima Wurie (1) count(s) 1, 2, 3. (Attachments: # 1 JS45) (Smith3, Dianne) (Entered: 03/28/2008)  * * * * *
9/4/08	17	MOTION to Suppress as to Brima Wurie. (Attachments: # 1 Affidavit Defendant's Affidavit in Support of Motion to Suppress) (Benzan, John) . (Entered: 09/04/2008)
9/11/08		Judge Richard G. Stearns: Electronic ORDER entered as to Brima Wurie. "This Court will not accept the unsigned Affidavit filed by de-

DATE	DOCKET NUMBER	PROCEEDINGS
		fendant Brima Wurie. The affidavit is hereby deemed withdrawn and therefore not to be considered as an exhibit to the pending motion to suppress until such time as counsel files a properly signed document by the defendant. SO ORDERED.” R.G. Stearns, USDJ. (Johnson, Mary) . (Entered: 09/11/2008)
9/15/08	18	MOTION to Suppress <i>Signed Affidavit</i> as to Brima Wurie. (Benzan, John) (Entered: 09/15/2008)
9/15/08	19	Motion for Leave to File <i>Motion to Suppress Late</i> as to Brima Wurie. (Benzan, John) (Entered: 09/15/2008)
9/17/08		Judge Richard G. Stearns: Electronic ORDER entered granting 19 Motion for Leave to File Motion to Suppress late. (Johnson, Mary) (Entered: 09/17/2008)
9/17/08		Judge Richard G. Stearns: Electronic ORDER entered finding as moot 18 Motion to Suppress as to Brima Wurie (1). “this document is not a motion but rather the signed Affidavit of the defendant. The Court will accept it as the signed

DATE	DOCKET NUMBER	PROCEEDINGS
		<p>affidavit in support of the pending motion to suppress, which is #17 on the docket". (Johnson, Mary). (Entered: 09/17/2008)</p> <p>* * * * *</p>
10/16/08	21	<p>MEMORANDUM in Opposition by USA as to Brima Wurie re 17 MOTION to Suppress (Attachments: # 1 Exhibit 1, # 2 Exhibit 2) (Lundgren, Gretchen) (Entered: 10/16/2008)</p> <p>* * * * *</p>
1/20/09		<p>Electronic Clerk Notes for proceedings held before Judge Richard G. Stearns: Motion Hearing as to Brima Wurie held on 1/20/2009 re 17 MOTION to Suppress filed by Brima Wurie. After oral argument, the Court allows Atty. Benzan 14 days to brief the issue on the cell phone search, and the Government will have 7 days to file a response if they so wish. The matter will then be taken "under advisement". (Court Reporter James Gibbons.) (Attorneys present: AUSA Lundgren; Atty. Benzan) (Johnson, Mary). (Entered: 01/20/2009)</p> <p>* * * * *</p>

DATE	DOCKET NUMBER	PROCEEDINGS
		* * * * *
5/4/09	27	Judge Richard G. Stearns: ORDER entered. MEMORANDUM OPINION as to Brima Wurie. . . . “for the foregoing reasons, the motion to suppress is DENIED.” Richard G. Stearns, USDJ. (Johnson, Mary). (Entered: 05/04/2009)
5/4/09		Judge Richard G. Stearns: Electronic ORDER entered denying 17 Motion to Suppress as to Brima Wurie (1). (Johnson, Mary) (Entered: 05/04/2009)
		* * * * *
2/22/10	45	AMENDED INDICTMENT, removing “WITHIN 1000 FEET OF A SCHOOL” from Count 2 of the original indictment by USA. Amendment to 1 Indictment as to Brima Wurie. (Seelye, Terri) (Entered: 02/25/2010)
		* * * * *
2/25/10	46	JURY VERDICT returned at 4:25 p.m. on 2/25/2010 as to Brima Wurie (1) Guilty on Count 1, 2, 3. (Seelye, Terri). (Entered: 02/25/2010)
		* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
10/22/10	63	<p>Transcript of Motion to Suppress Hearing as to Brima Wurie held on January 20, 2009, before Judge Richard G. Stearns. Court Reporter Name and Contact Information: James Gibbons at jmsgibbons@yahoo.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 11/12/2010. Redacted Transcript Deadline set for 11/22/2010. Release of Transcript Restriction set for 1/20/2011. (Scalfani, Deborah) (Entered: 10/22/2010)</p>

\* \* \* \* \*

6/29/11		<p>ELECTRONIC Clerk's Notes for proceedings held before Judge Richard G. Stearns: Sentencing held on 6/29/2011 as to Brima Wurie for Brima Wurie (1), Count(s) 1, 2, 3. Defendant committed to the Bureau of Prisons for 262 months on Counts 1 and 3 and 240 months on Count 2 to be served concurrently; 5 years Supervised Release on each count to be served concurrently; \$300.00 Special Assessment; No Fine; No Restitu-</p>
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DATE	DOCKET NUMBER	PROCEEDINGS
6/30/11	82	<p>tion. (Attorneys present: SAUSA Lundgren; FPD Gold) Court Reporter Name and Contact or digital recording information: James Gibbons at <a href="mailto:jmsgibbons@yahoo.com">jmsgibbons@yahoo.com</a>. (Seelye, Terri) (Entered: 06/29/2011)</p> <p>Judge Richard G. Stearns: JUDGMENT as to Brima Wurie (1), Count(s) 1, 2, 3. Defendant committed to the Bureau of Prisons for 262 months on Counts 1 and 3 and 240 months on Count 2 to be served concurrently; 5 years Supervised Release, with special and mandatory conditions; \$300.00 Special Assessment; No Fine; No Restitution. (Seelye, Terri) (Entered: 06/30/2011)</p>
7/7/11	83	<p>NOTICE OF APPEAL to Judgment 82 by Brima Wurie (Fee Status: IFP requested). NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov">http://www.ca1.uscourts.gov</a> MUST be completed and submitted to the Court of Appeals. <b>Counsel shall register for a First Circuit CM/ECF Appellate Filer Account at <a href="http://pacer.psc.uscourts.gov/cmecf">http://pacer.psc.uscourts.gov/cmecf</a>.</b> Counsel</p>

DATE	DOCKET NUMBER	PROCEEDINGS
		<p>shall also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at <a href="http://www.ca1.uscourts.gov/efiling.htm">http://www.ca1.uscourts.gov/efiling.htm</a>. US District Court Clerk to deliver official record to Court of Appeals by 7/27/2011. (Gold, Ian) Modified on 7/11/2011 (Flaherty, Elaine). (Entered: 07/07/2011)</p> <p>* * * * *</p>
7/8/11		<p>USCA Case Number as to Brima Wurie 11-1792 for 83 Notice of Appeal, filed by Brima Wurie. (Ramos, Jeanette) (Entered: 07/08/2011)</p> <p>* * * * *</p>
5/17/13	87	<p>OPINION of USCA as to Brima Wurie re 83 Notice of Appeal. “we reverse the denial of defendant-appellant Brima Wurie’s motion to suppress, vacate his conviction, and remand his case to the district court.” (Paine, Matthew) (Entered: 05/20/2013)</p>
5/17/13	88	<p>JUDGMENT of USCA (certified copy) as to Brima Wurie re 83 Notice of Appeal. Upon consideration whereof, it is now here ordered, ad-</p>

DATE	DOCKET NUMBER	PROCEEDINGS
		judged and decreed as follows: The district court's denial of Brima Wurie's motion to suppress is reversed, his conviction is vacated, and the matter is remanded to the district court for further proceedings consistent with the opinion issued this day. (Paine, Matthew) (Entered: 05/20/2013)
7/31/13	89	MOTION for Release from Custody as to Brima Wurie, FILED.. (Flaherty, Elaine) (Entered: 08/02/2013)
8/5/13	90	Judge Richard G. Stearns: ENDORSED ORDER entered denying 89 Motion for Release from Custody as to Brima Wurie (1). (Seelye, Terri) cm to deft Wurie 8/28/13 (Entered: 08/05/2013)
8/28/13	91	Case Appealed to Supreme Court of the United States, Case Number 13-212 as to Brima Wurie. (Danieli, Chris) (Entered: 08/29/2013)
1/29/14	92	Order entered from the U.S. Supreme Court. The Petition for a Writ of Certiorari is GRANTED as to Brima Wurie. (Paine, Matthew) (Entered: 01/30/2014)



UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

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No. 11-1792

UNITED STATES, APPELLEE

*v.*

BRIMA WURIE, DEFENDANT-APPELLANT

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Entered: Aug. 30, 2013

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**ORDER OF COURT**

Before HOWARD, STAHL AND LIPEZ,  
Circuit Judges

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Appellant's motion to reconsider the court's August 2,  
2013 order is denied.

By the Court:

/s/ Margaret Carter, Clerk

cc:

Dina Chaitowitz  
Michael Dreeben  
Kelly Lawrence  
John Wortmann, Jr.  
Ian Gold

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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Docket No. 08-10071  
UNITED STATES OF AMERICA  
*v.*  
BRIMA WURIE, DEFENDANT

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Filed: Sept. 15, 2008

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**BRIMA WURIE'S AFFIDAVIT IN SUPPORT OF HIS  
MOTION TO SUPPRESS EVIDENCE SEIZED WITH-  
OUT A WARRANT**

I, BRIMA WURIE state the following under the pains and penalty of perjury:

1. On September 5, 2007 I was driving in Boston when I was stopped by the police.
2. Following the stop, the police arrested me and searched me.
3. The police also seized and searched the car I was driving without permission.

I did not possess any contraband nor were there any found inside the car.

4. I neither gave my consent to search, nor did I waive any of my federal constitutional rights.

5. Upon my arrest I was taken to the police station where I was photographed, fingerprinted and interviewed regarding my personal information.
6. After the booking process, the police inventoried my personal belongings including my wallet and my cellular telephone.
7. I subsequently found out that sometime afterwards the police searched the computer files in my cellular telephone, specifically the contents of my “address and telephone numbers” file.
8. I also learned the police took my keys and conducted a search with them at the address of the baby’s mother, Yolanda Walker.
9. At no time did I waive any of my constitutional rights nor did I consent to any of the seizures or searches conducted by the police in connection with this matter.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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Criminal No. 08-10071-RGS  
UNITED STATES OF AMERICA

*v.*

BRIMA WURIE

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Filed: Oct. 16, 2008

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**AFFIDAVIT OF SERGEANT DETECTIVE  
PAUL W. MURPHY, JR.**

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I, Paul W. Murphy, Jr., do hereby under oath depose and state as follows:

1. My name is Paul W. Murphy, Jr. I am a Sergeant Detective with the Boston Police Department. I have been a police officer for twenty-two years. I am currently the supervisor of the Area C-6 Drug Control Unit that covers South Boston and parts of Dorchester.
2. On September 5, 2007, shortly before 6:45 p.m., I was driving past the L'il Peach convenience store on Dorchester Avenue. I saw a man, later identified as Fred Wade, age 51, talking on a cell phone and watching cars as they drove by the store's parking lot. After approximately five minutes, I observed a white 2007 Nissan Altima sedan pull into the parking lot and stop next to Wade. The

only occupant of the car was the driver, later identified as the defendant, Brima Wurie. Wade got into the front passenger seat and the defendant drove from the lot, turning left onto Dorchester Avenue toward D Street.

3. While I waited for additional drug unit officers to arrive, I followed directly behind the Altima on Dorchester Avenue. The defendant drove slowly for approximately one hundred and fifty yards up Dorchester Avenue, made a u-turn, and stopped in the middle of Dorchester Avenue across from the L'il Peach store. During this short ride I could see both individuals moving inside of the car. I watched Wade exit the car, cross the street and enter the store. The Altima then drove away.

4. Based on my years of training and experience, I believed that a drug transaction had taken place. The activities I witnessed were significant because a popular method of selling drugs in South Boston is by car delivery: the parties negotiate a price for the drugs over the phone, the buyer proceeds to an agreed-upon location, the drug dealer arrives in a car, and the parties quickly complete the sale in the car. While completing the sale, the parties often drive a short distance—around the block or up a section of street and back—in order to try to blend in and avoid police surveillance. I have arrested several dozens of drug dealers that have employed this method of delivery service.

5. After making these observations, I broadcast the make, model and license plate number of the defendant's vehicle to the other members of my squad. One member of the squad, Officer Boyle, arrived and went into the L'il Peach store with me. Officer Boyle and I stopped Wade

as he was leaving the store and found two plastic bags of crack cocaine in Wade's left front pocket. I believed that each bag held an "8-ball," a slang term describing 3.5 grams of crack cocaine.

6. After Wade was read his *Miranda* warnings, he said that he bought the drugs from "B," the male driving the Altima. He also said that "B" lives in South Boston and sells large amounts of crack cocaine in amounts no smaller than an "8-Ball." Wade said he had purchased cocaine several times from "B," usually in South Boston, but sometimes at "B's" father's house off of Topliff Street in Dorchester. On those occasions, Wade would go to the house and wait for "B" to drive there and sell him cocaine.

7. I contacted Officer Smigliani, who had been following the defendant in the Altima, and told him that Wade admitted buying crack cocaine from the defendant. The defendant parked his car near the intersection of Dorchester Avenue and Silver Street. After exiting the Altima, Officer Smigliani arrested the defendant for distribution of cocaine and read him his *Miranda* warnings. The car the defendant was driving was a rental car. A summary of these facts was memorialized that day in the Boston Police Incident Report 070494351, attached hereto at *Exhibit A*.

8. The defendant was taken immediately to the Area C-6 police station, located approximately one-half mile from where the defendant was arrested. At the station, as is standard procedure, the defendant was searched incident to arrest and his personal property was inventoried. Two

cell phones and \$1,275.00 were recovered from the defendant. *Id.*

9. Shortly thereafter, I learned from Officers Jones and England that there was a reference in one of the defendant's cell phones to a number "617-315-7384," which was identified on the caller ID as "my house." *Id.* When Officer Jones typed that phone number into the Internet website "AnyWho" ([www.anywho.com](http://www.anywho.com)), the number came back listed to "Manny Cristal" of 315 Silver Street in Boston. *Id.*

10. I read the defendant his *Miranda* warnings a second time and asked him about his whereabouts that evening. The defendant stated that he lived at 51 Speedwell Street in Dorchester and that he was in South Boston "cruising around." He denied stopping in the L'il Peach parking lot, denied giving anyone a ride, denied speaking with anyone in South Boston that day, and denied selling cocaine.

11. I suspected, based on (1) the large amount of cash, (2) the two cell phones (often times a drug dealer uses more than one cell phone—one for arranging drug deals and another for personal use), (3) the defendant driving a rented car (drug dealers with a more lucrative business often use rental cars to prevent their personal cars from being seized should they get caught selling drugs), (4) the amount of drugs found on Wade, and (5) what Wade told me about the quantities of drugs the defendant typically sold, that the defendant may have a large quantity of drugs stored somewhere. I know from my training and experience that when a drug dealer sells relatively large amounts of drugs, he typically keeps the drugs at his res-

idence or a “stash house.” When meeting with a drug buyer to make a sale, the drug dealer may only carry with him the amount of drugs he has agreed to sell to the drug buyer to (1) avoid being robbed of additional drugs or (2) being caught by the police with a significant amount of drugs.

12. I also believed that the defendant was lying about living in Dorchester. Drug dealers often take steps to cover-up where they live because, as described above, they often store their drugs and drug packaging materials there. Wade told me the defendant lived in South Boston, the defendant was parking his car at the corner of Silver Street and Dorchester Avenue in South Boston when he was arrested, and the phone number he labeled as “my house” on his cell phone was associated with 315 Silver Street in South Boston.

13. As a result, several members of the Drug Control Unit and I went to investigate that address, taking with us the key ring seized from the defendant at the time of his arrest. There, we found three mailboxes outside the building’s front door. One mailbox had the names “Cristal” and “Wurie” written on it in handwritten ink. The lights in the first floor apartment were on. I was able to see a young black woman talking on the phone from the sidewalk. The woman appeared to be the same woman whose picture served as the “wallpaper” on the defendant’s cell phone.

14. I took the defendant’s keys and unlocked the door to the front entrance of 315 Silver Street and entered the common hallway area. There was only one apartment on the first floor to the right, and a locked door which led to



the second floor. I tried all of the keys on the defendant's key ring to open the door to the second floor, but none worked. I then tried the keys in the first floor apartment lock and found that one key unlocked the door. I removed the key from the lock without opening the door, knocked on the door, and the black female, identified as Yolanda Walker, answered.

15. I identified myself as a Boston Police officer and asked Walker to step into the hallway. I and other members of my unit could smell the distinct odor of burnt marijuana coming from the first floor apartment. Walker told us that she knew the defendant and that he occasionally stayed at the apartment, including the night before and earlier that day. Based on the smell of burnt marijuana, we suspected criminal activity within the apartment, "froze" it, and conducted a protective sweep of the apartment. We encountered a sleeping child on a bed in the apartment who appeared to be the same child depicted on the defendant's cell phone.

16. I returned to the police station and asked the defendant why his keys opened the door to the first floor apartment of 315 Silver Street. The defendant stated "I don't know."

17. We obtained a search warrant for 315 Silver Street, Apartment 1. *See* Search Warrant, Application, Affidavit, and Return, attached hereto at *Exhibit B*. Pursuant to the execution of the search warrant, among other things, officers recovered in the master bedroom:

- over 215 grams of crack cocaine;
- a Smith & Wesson .9 millimeter firearm containing five rounds of nine-millimeter ammunition;

- six rounds of .40 caliber hollow point ammunition;
- two large plastic bags, one medium-sized plastic bag, and one small plastic bag of marijuana;
- photographs and personal papers of the defendant and Walker;
- two cell phones;
- plastic bags, scissors, a scale, razor blades; and
- \$250 in cash.

A summary of these facts was memorialized that day in the Boston Police Incident Report No. 070494818, attached hereto at *Exhibit C*.

18. I later learned from the Bureau of Alcohol, Tobacco, Firearms and Explosives found that the .9 millimeter firearm was stolen on April 5, 2005 from a home during a breaking and entering in Columbus, Georgia.

Signed under the pains and penalties of perjury this 15th day of October, 2008.

/s/ PAUL W. MURPHY  
PAUL MURPHY

## EXHIBIT C

SEARCH WARRANT G.L.c. 276, §§ 1-7	TRIAL COURT OF MASSACHUSETTS
NAME OF APPLICANT Paul W. Murphy Jr.	<b>Boston Municipal</b> <b>COURT DEPARTMENT</b> <b>Criminal</b> <b>DIVISION</b>
POSITION OF APPLICANT Sergeant Detective Boston Police Department Drug Control Unit/Area C6	SEARCH WARRANT DOCKET NUMBER  [0703SW122]
<p><b>TO THE SHERIFFS OF OUR SEVERAL COUNTIES OR THEIR DEPUTIES, ANY STATE POLICE OFFICER, OR ANY CONSTABLE OR POLICE OFFICER OF ANY CITY OR TOWN, WITHIN OUR COMMONWEALTH:</b></p> <p>Proof by affidavit, which is hereby incorporated by reference, has been made this day and I find that there is <b>PROBABLE CAUSE</b> to believe that the property described below</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> has been stolen, embezzled, or obtained by false pretenses</li> <li><input checked="" type="checkbox"/> is intended for use or been used as a means of committing a crime.</li> <li><input checked="" type="checkbox"/> has been concealed to prevent a crime from being discovered.</li> <li><input checked="" type="checkbox"/> is unlawfully possessed or concealed for an unlawful purpose.</li> <li><input checked="" type="checkbox"/> is evidence of a crime or is evidence of criminal activity</li> <li><input type="checkbox"/> other (specify)</li> </ul> <p><b>YOU ARE THEREFORE COMMANDED</b> within a reasonable time and in no event later than seven days from the issuance of this search warrant to search for the following property:</p>	

**Marijuana, a Class "D" controlled substance as defined under Massachusetts General Law, Chapter 94C, along with any instruments used in the packaging of marijuana for sale and/or consumption. Crack cocaine, controlled substance as defined under Massachusetts General Law, Chapter 94C, along with items used in the weighing, of cutting of, packaging of, packaging of and distribution of the drug. Further, any ledgers, books, or other items indicating illegal drug activity. Personal papers and/or effects showing occupancy and/or control of apartment #1, being the only apartment on the first floor of 315 Silver Street, South Boston, Massachusetts, currently "Frozen" by Boston Police DCU Officers.**

**At (identify the exact location or description of the place(s) to be searched: All rooms, closets and storage areas of, as well as all containers within, either locked or unlocked and including the basement of, apartment #1 of 315 Silver Street, South Boston, Massachusetts. 315 Silver Street, South Boston, Massachusetts. 315 Silver Street, South Boston, MA is a 3 story, cream-colored wooden house having brown shutters and a brown front door. The house bears the number #315 on its exterior. Apartment #1 of the house is the only apartment on the first floor and has a finished basement that is accessed from a stairway found within the apartment.**

Which is occupied by and/or in the possession of: Brima A. Wurie Jr., BN/M, DOB 02-22-79, SS #019-72-751, 6'0" in height, 220 lbs., black hair, brown eyes. Yolonda Walker, BN/F, DOB 5-17-78, black hair, brown eyes.

**On the person or in the possession of (identify any specific person(s) to be searched: N/A**

You  are  are not also authorized to conduct the search at any time during the night

You ~~are~~ [N/A]  are  are not also authorized to enter the

premises without announcement. (N/A)	
You <input checked="" type="checkbox"/> are <input type="checkbox"/> are not also commanded to search any person present who may be found to have such property in his or her possession or under his or her control or to whom such property may have been delivered.	
<b>YOU ARE FURTHER COMMANDED</b> if you find such property or any part thereof, to bring it, and when appropriate, the persons in whose possession it is found before the	
<b><u>South Boston</u></b>	
<b>Division of the Boston Municipal Court Department</b>	
<b>DATE ISSUED</b> 9/5/07	<b>SIGNATURE OF JUSTICE, CLERK-MAGISTRATE OR ASSISTANT CLERK</b> x [signature illegible]
<b>FIRST OR ADMINISTRATIVE JUSTICE WITNESS:</b> [signature illegible]	<b>PRINTED NAME OF JUSTICE, CLERK-MAGISTRATE OR ASSISTANT CLERK</b> /s/ Kimberly L. Annesl
<b>APPLICATION FOR SEARCH WARRANT</b> G.L.C. 276, §§ 1-7	<b>TRIAL COURT OF</b> Boston Municipal South Boston District  <b>MASSACHUSETTS COURT DEPARTMENT CRIMINAL DIVISION</b>
<b>POSITION OF APPLICANT</b> Sergeant Detective/Boston Police Dept. Drug Control Unit/Area C6	<b>SEARCH WARRANT DOCKET NUMBER</b> [07035SW122]
I, the undersigned <b>APPLICANT</b> , being duly sworn, depose and say that: 1. I have the following information based upon the attached affidavits(s), consisting of a total of 6 page(s), which is (are) incorporated herein by reference.	

<p>2. Based upon this information, there is <b>PROBABLE CAUSE</b> to believe that the property described below:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> has been stolen, embezzled, or obtained by false pretenses</li> <li><input checked="" type="checkbox"/> is intended for use or has been used as a means of committing a crime.</li> <li><input checked="" type="checkbox"/> has been concealed to prevent a crime from being discovered.</li> <li><input checked="" type="checkbox"/> is unlawfully possessed or concealed for an unlawful purpose.</li> <li><input checked="" type="checkbox"/> is evidence of a crime or is evidence of criminal activity.</li> <li><input type="checkbox"/> other (specify)</li> </ul> <p>3. I am seeking the issuance of a warrant to search for the following property (describe the property to be searched for as particularly as possible):</p> <p><b>Marijuana, a Class "D" controlled substance as defined under Massachusetts General Law, Chapter 94C, along with any instruments used in the packaging of marijuana for sale and/or consumption. Crack cocaine, controlled substance as defined under Massachusetts General Law, Chapter 94C, along with items used in the weighing, of cutting of, packaging of and distribution of the drug. Further, any ledgers, books, or other items indicating illegal drug activity. Personal papers and/or effects showing occupancy and/or control of apartment #1, being the only apartment on the first floor of 315 Silver Street, South Boston, Massachusetts, currently "frozen" by Boston Police DCU Officers.</b></p> <p>4. Based upon this information, there is also probable cause to believe that the property may be found (check as many as apply):</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> At (identify the exact location or description of the place(s) to be searched: <b>All rooms, closets and storage areas of, as well as all containers within, either locked or unlocked and including the basement of, apartment #1 of 315 Silver Street, South Boston, Massachusetts.</b></li> </ul>
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**RETURN OF OFFICER SERVING  
SEARCH WARRANT**

*A search warrant must be executed as soon as reasonably possible after its issuance, and in any case may not be validly executed more than 7 days after its issuance. The executing officer must file his or her return with the court named in the warrant within 7 days after the warrant is issued. G.L.c. 276, §3A.*

This search warrant was issued on Sept. 5th 2007, and I have executed it as follows:

The following is an inventory of the property taken pursuant to this search warrant:

1. ZIP-LOCK PLASTIC BAGGIES
2. RITE WEIGHT SCALE
3. SAMSUNG CELL PHONE
4. MOTOROLA BOOST CELL PHONE
5. SCISSORS
6. PERS. PAPERS (WURIE)
7. BOX OF PLASTIC BAGGIES
8. RAZOR BLADES
9. 2 LGE. PLASTIC BAGS W/ OVER 150 GRAMS  
CRACK COCAINE
10. 1 P/B MARIJUANA
11. PACK OF CIGARS
12. PERS. PAPERS (WALKER)
13. LARGE FREEZER BAG OF MARIJUANA
14. MULTIPLE PLASTIC BAGGIES W/ RESIDUE
15. LGE. P/B MARIJUANA/MED. P/B MARIJUANA
16. 6 .40 CAL. HOLLOW POINT ROUNDS



17. SMITH & WESSON 9MM PISTOL MODEL #SW9VE W/HIGH CAP. MAG. W/ 5RDS 9MM AM [Illegible)
18. \$250 USC
19. MAN'S BROWN SWEATSHIRT
20. PHOTOS OF WURIE
21. PERS PAPERS (WURIE & WALKER)
22. PHOTOS (WURIE & WALKER)
23. HANDWRITTEN LETTER BY WALKER

This inventory was made in the presence of: Sgt Det Paul Murphy

I swear that this inventory is a true and detailed account of all the property taken by me on this search warrant

SIGNATURE OF PERSON MAKING SEARCH	DATE AND TIME OF SEARCH	SWOR[N] AND SUBSCRIBED TO BEFORE
/s/ [signature illegible]	Sept 5th, 2007 11:00 pm	/s/ [signature illegible]
PRINTED NAME OF PERSON MAKING SEARCH	TITLE OF PERSON MAKING SEARCH	DATE SWOR[N] AND SUBSCRIBED TO
PO Christopher Boyle	[PO; BPD]	[illegible]

I, Paul W. Murphy Jr., am a Boston Police Sergeant Detective, currently assigned to the Department's Drug Control Unit (DCU), detailed to Area C6, which covers

South Boston and sections of Dorchester and Roxbury. I have been employed as a Boston Police Officer for over twenty-two years and during my career, I have effected the arrests of over four thousand individuals for various violations of the drug laws. These offenses include Trafficking in, Distribution of, Possession with the Intent to Distribute and Possession of, various controlled substances as defined under Massachusetts General Law, Chapter 94C. I hold a Bachelor of Science degree from Boston College in Marketing and a Master of Science degree in Criminal Justice from Western New England College.

I have been previously assigned as a Detective in the Drug Control Unit for approximately four years, serving in a citywide night squad and in the Area B3 squad, covering Mattapan and Dorchester. I have held the position of Sergeant Detective in the same unit for over seven years. During this period, I supervised the Area C6 DCU squad from April of 2000 to May of 2005. I then supervised the City-Wide Night Squad from May of 2005 to March of 2007. I have also been assigned in the past as a Police Officer to the Anti-Gang Violence Unit after its inception and as a Sergeant with the Youth Violence Strike Force for over three years.

I have also been the Affiant on and/or participated in the preparation of over two hundred Search Warrants which sought to search for controlled substances and/or weapons and which received the appropriate judicial/magisterial approval.

I have made over thirty undercover purchases of varied controlled substances while working in specialized units

of the Boston Police Department. These purchases include those of cocaine, heroin, marijuana and pharmaceutical drugs.

I have attended courses and/or seminars presented on the topics of drug investigation, Search Warrants and their preparation, Confidential Informants and their use in drug investigation, undercover drug investigations, as well in designer drugs. The Drug Enforcement Administration, the Boston Police Academy, W.H. Harris Associates, the Federal Bureau of Investigation and the New England Narcotic Officers Association presented these courses respectively.

I have been judicially accepted as a law enforcement expert in the area of street level drug investigation and have been allowed to offer opinions in various Suffolk County Courts relative to the sale and/or the distribution of, manufacture of and the consumption of, various narcotics. The date of the writing of this affidavit in support of application for a Search Warrant is **September 05, 2007**.

One of the more popular methods by which drugs are currently sold in the South Boston area, as well as in other sections of Boston, is by motor vehicle delivery. What generally occurs in this type of transaction is that a drug customer will contact the drug dealer by phone—usually cell phone.

The amount of drugs to be purchased, as well as the place where the transaction will transpire is then decided upon and the buyer will proceed to the agreed upon location. The buyer will usually wait, either within a motor vehicle or on foot, for the dealer to arrive.

Drug investigators take note of people waiting in high drug areas, watching passing cars and/or making brief phone calls. When the dealer arrives, the transaction will then transpire, usually within a motor vehicle and the parties will separate.

Oftentimes, the drug buyer will enter the dealer's car and go for what the Police sometimes refer to as a "meaningless ride", referring to a ride around the block or up the street and back, etc.

The Andrew Square section of South Boston is a location routinely patrolled by Area C6 DCU Officers. There are places of business in the area, payphones, as well as a large MBTA station. DCU Officers have come to learn that drug buyers and dealers meet in this area in attempt at blending in with the general law abiding public, to avoid surveillance.

Officers from my DCU squad have apprehended hundreds of individuals in this area over the years for drug violations. Many of these incidents have involved the motor vehicle delivery and/or conveyance of controlled substances.

On today's date (September 05, 2007), at about 6:45 p.m., I was traveling in the Andrew Square area, dressed in plainclothes and operating an unmarked Drug Control Unit vehicle. I observed a black male standing in the Lil' Peach variety store parking lot, which is in Andrew Square, opposite the aforementioned Andrew Square MBTA station. This male was later identified as Fred A. Wade Jr., BN/M, DOB 09-01-56, of 28 Dyer Street, #1, Dorchester, MA.

Mr. Wade was using a cell phone and watching passing motor vehicles. I began to monitor his activities and summonsed other squad members to the area to assist me. About five to eight minutes later, a white color 2007 Nissan Altima sedan, bearing Massachusetts registration #93J F88, pulled into the Lil' Peach parking lot and stopped beside Mr. Wade.

This vehicle was solely occupied and thus operated by a black male who was later Identified as Brima A. Wurie Jr., BN/M, DOB 02-22-79, who provided an address of 51 Speedwell Street #2, Dorchester, MA. Mr. Wade entered the front passenger seat of the Altima and Wurie drove from the lot, turning right onto Dorchester Avenue, towards D Street.

Other squad members were still enroute to the Andrew Square area, so I followed directly behind the Altima as it proceeded on Dorchester Avenue. I could see that both Wade and Wurie were at times turned toward each other within the car and I could see Wade slightly lift himself up off the seat as if accessing a pants pocket.

Wurie drove the car at a slow rate of speed and at one point signaled left and began a U-turn. He then shut the directional off and proceeded another thirty yards or so, signaled left and then U-turned. Wurie proceeded back in the direction in which he had traveled and stopped in the middle of Dorchester Avenue, prior to the Lil' Peach store and allowed Wade to exit the vehicle. Essentially Wurie drove Wade about 150 yards on Dorchester Avenue, U-turned and dropped him off.

At this time I believed that a drug transaction had just transpired within the Altima as I have made dozens of

drug arrests in the past involving persons who have engaged in similar behavior as the aforementioned suspects. I watched Wade walk back to the Lil' Peach store and enter it. I also watched the Altima as it was stopped at the red light on Dorchester Avenue at Southampton Street and broadcast its description, including the license plate number, to other members of the squad.

PO's Steven Smigliani and Christopher Boyle, who are Area C6 DCU Officers, now arrived in Andrew Square. PO Boyle exited his unmarked DCU vehicle and accompanied me into the Lil' Peach store, while PO Smigliani followed the Altima as it drove on Dorchester Street, further into South Boston, towards Perkins Square.

PO Boyle and I encountered Mr. Wade as he was walking out of the variety store and identified ourselves to him by displaying our badges and stating "Boston Police". At this time, I recovered two plastic bags, believed to be "8-balls" of crack cocaine from Wade's left front pants pocket. An "8-ball" is street slang for 3.5 grams of the drug.

Wade was initially uncooperative, but then stated that he had bought the bags of cocaine from "B", who was the male driving the Altima. I conveyed this information to PO Smigliani via walkie-talkie and I requested that PO Smigliani arrest the driver of the Altima.

PO Smigliani summonsed marked Area C6 units to assist him in stopping the Altima, as DCU vehicles are generally not equipped with Police issued emergency equipment. PO Smigliani observed Wurie drive the Altima on Dorchester Street, then U-turn and park near Silver Street.

PO Smigliani, who was operating a gray Chevy pick-up truck, parked near him and watched Wurie exit the Altima. PO Smigliani exited his DCU vehicle and Wurie, who was watching the Officer, asked if it was all right to park there. PO Smigliani, like all DCU Officers, was dressed in plainclothes.

Other Area C6 Officers arrived at this location and PO Smigliani Mirandized Wurie on scene, arrested him and informed him of his charges. The Altima was found to have been rented by Brima Wurie, from the Enterprise Rent a Car Company of Boston, Inc.

As this was transpiring, I Mirandized Mr. Wade at the scene of his arrest and he indicated that he understood his rights. He informed PO Boyle and I that "B", the man that had just sold him the cocaine, sells large amounts of cocaine and lives in South Boston. He detailed that the smallest amount of crack cocaine that "B" will sell is an "8-ball" of the drug.

He stated that he has bought cocaine from "B" several times in the past and usually meets him in South Boston as he lives in the area. Wade stated that "B"'s father lives in Dorchester on a street that is off of Topliff Street and that sometimes he (Wade) will go to this house and wait for "B" to drive there and sell him cocaine. Wade stated that "B"'s father is also a drug dealer.

Investigation of Brima Wurie's criminal record with the Commonwealth of Massachusetts Criminal History Systems Board shows that he has been convicted in the past of the following offenses, listed along with the Court having jurisdiction: Suffolk Superior Court-Accessory After the Fact/Assault by Means of a Dangerous Weapon, Op-

erating without a License, Operating to Endanger, Leaving the Scene/Personal Injury and A & B D/W; Brockton District Court-A & B/PO, Resisting Arrest; Dorchester District Court-Unarmed Assault with Intent to Rob; Dorchester District Court-A & B D/W, A & B; Dorchester District Court-Intimidation of a Witness, A & B; Dorchester District Court-A & B D/W (knife), Assault by Means of a Dangerous Weapon.

I then went to Area C6 and again Mirandized him. He then stated that he understood his Rights and I asked him about his recent activities and why he was in South Boston this date.

Wurie stated to me that he lives at 51 Speedwell Street in Dorchester and that he was in South Boston as he was "just cruising around." He denied having stopped in the Lil' Peach parking lot, denied having let someone into his car and give him a short car ride, denied speaking with anyone in South Boston and denied having sold cocaine to the man that was in his car.

Wurie was charged with the crimes of Distribution Class "B" and Distribution Class "B" (School Zone). Seized from him at booking was \$1275.00 USC and two cell phones.

PO Boyle searched the Altima incidental to arrest and did not recover any other drugs. PO Kevin Jones, who is also a member of the squad, searched Wurie's cell phones incidental to his arrest. Located within Brima's gray Verizon LG cell phone was the phone number of #617-315-7384 that was listed under the heading of "My house". There is a photo of a young black female holding a baby as wallpaper on the screen of this phone.



PO Jones then did a reverse phone listing using the Internet AnyWho web page of this phone number. It was learned that the number is listed to Manny Cristal of 315 Silver Street in South Boston.

I then took the key ring that Wurie had in his possession that contained the Altima key, as well as several other keys and drove to Silver Street in the company of squad members Robert England, Kevin Jones and Steven Smigliani. I approached 315 Silver Street alone and observed that there are three mailboxes affixed to this house. The farthest mailbox away from the single front door of the house is marked with the names Cristal and Wurie in handwritten ink.

The first floor was illuminated and a black female, believed to be the same woman in the aforementioned cell phone photo, could be seen speaking on a phone within the house. This view is easily seen by standing on the sidewalk in front of the house.

I used a key from Wurie's ring to unlock and open the front entrance of 315 Silver Street. I then entered the building and encountered the door to the first floor apartment on my right and a second locked door straight ahead that leads to the second floor.

I first tried all of Wurie's keys in the lock of the door leading to the second floor and they did not work in the lock. I then tried the same keys in the first floor apartment door and found one that unlocked the door.

Rather than enter this apartment, I knocked on the door and the black female that was within answered it. I iden-

tified myself as a Boston Police Officer, as did the other members of my squad and displayed my badge to her.

We did not enter the apartment, but instead asked this female, later identified as Yolonda Walker, to step out into the entryway. All of the Officers present, including myself, could detect the odor of freshly burnt marijuana within the first floor apartment.

Burning or burnt marijuana has a distinctive odor unto itself that is easily recognized. It is hard to describe this odor, just as it is difficult to describe the taste of milk, as they are both distinctive and not similar to anything else.

I told her that a man had just been arrested for selling drugs and had in his possession the keys to the front door of this house, as well as to her apartment. I told her the man's name and she stated that she knows him and that he stays there sometimes. She also stated that he had stayed there last night and had been there earlier today. She seemed nervous and somewhat reluctant to answer questions, leading me to believe that she was not being fully truthful with me.

Squad members and I then conducted a protective sweep of this first floor apartment and encountered a sleeping infant on a bed. This child is thought to be the one in the cell phone photo, I then returned to Area C6 and asked Brima Wurie why the keys on his ring opened apartment #1 of 315 Silver Street and he stated, "I don't know". This apartment is currently "frozen" by Boston Police DCU Officers, pending the Court's permission to search it for marijuana and crack cocaine.

It is my opinion, after having arrested hundreds of individuals in the past for drug distribution, that Brima Wurie is presently selling crack cocaine and that he uses cell phones to stay in contact with drug customers and motor vehicles, in this case a rental vehicle, to bring the drug to buyers.

Drug dealers most often take steps to hide their true address from authorities as they often store drugs for sale where they live and/or additional evidence of drug distribution, such as money derived from drug sales, drug packaging paraphernalia and at times written notations indicating drug activity.

It is my belief, based upon Mr. Wade's statements about Wurie, the cell phone containing Yolonda Walker's picture and the phone number to 315 Silver Street, apt. #1, South Boston under the heading "My house" that was in Wurie's possession, along with the keys that he had in his possession at the time of his arrest that opened this apartment, that Brima Wurle currently resides in apartment #1 of 315 Silver Street, South Boston, with his girlfriend Yolanda Walker and the baby.

It is my belief that marijuana will be found within this apartment, as it strongly smells of the drug. Further, I believe that additional evidence of Wurie's illegal drug business will be found here as he is denying any connection to this address.

I am requesting that the Court grant a Search Warrant for this apartment, allowing Police to search the apartment for marijuana, additional crack cocaine and any items connected with crack cocaine distribution, including items used for weighing, cutting and packaging the

drug, money derived from drug sales, books, notes or ledgers denoting drug activity and personal effects showing occupancy and/or control of 315 Sliver Street, apartment #1, South Boston.

315 Silver Street, South Boston, MA is a 3 story, cream-colored wooden house having brown shutters and a brown front door. The house bears the number #315 on its exterior. Apartment #1 of the house is the only apartment on the first floor and has a finished basement that is accessed from a stairway found within the apartment.

**PRINTED NAME OF                      SIGNED UNDER THE PEN-  
AFFIANT    ALTIES OF PERJURY**

/s/ Paul W. Murphy Jr.    /s/ PAUL W. MURPHY JR.

**DATE    SWORN AND SUBSCRIBED**

[9/5/07]

**BE FORE:**

/s/ [signature illegible]

Ass't Clerk Magistrate

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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Criminal No. 08-10071-RGS

UNITED STATES OF AMERICA

*v.*

BRIMA WURIE

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Filed: Oct. 16, 2008

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**AFFIDAVIT OF POLICE OFFICER  
ROBERT ENGLAND**

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I, Robert England, do hereby under oath depose and state as follows:

1. My name is Robert England. I am a police officer with the Boston Police Department. I am currently a member of the Area C-6 Drug Control Unit that is assigned to cover South Boston and parts of Dorchester.
2. On September 5, 2007, at approximately 6:45 p.m, I was driving around South Boston as part of our unit's nightly routine looking for drug activity.
3. I became aware that based on observations made by Sgt. Det. Paul Murphy, the defendant, Brima Wurie, was arrested for the distribution of crack cocaine.

4. The defendant was taken immediately to the Area C-6 police station, located approximately one-half mile from where he was arrested at the intersection of Silver Street and Dorchester Avenue. At the station, as is standard procedure, the defendant was searched incident to arrest and his personal property was inventoried. Two cell phones and \$1,275.00 were recovered from the defendant.
5. Approximately 5-10 minutes after arriving at the station, and prior to being booked, Officers Kevin Jones and I noticed that one of the cell phones recovered from the defendant was repeatedly receiving calls from a number identified on the external the caller ID screen on the front of the phone as “my house.” We were able to see this in plain view without opening the phone.
6. About 5 minutes after it began ringing, we opened the phone to look at the phone’s call log. We found a photo of a young black female holding a baby as the phone’s “wallpaper.” By pressing one button we accessed the phone’s call log showing the calls from “my house.” From there, by pressing one button, we were able to determine that the “my house” caller ID reference had the phone number “617-315-7384.”
7. Officer Jones typed that phone number into the Internet website “AnyWho” ([www.anywho.com](http://www.anywho.com)). The number came back listed to “Manny Cristal” of 315 Silver Street in Boston—the same street near which the defendant was parking when arrested.
8. We did not search the phone’s “contacts” or access any other information contained within the defendant’s phone.

Signed under the pains and penalties of perjury this 15th  
day of Oct., 2008.

/s/ ROBERT ENGLAND  
ROBERT ENGLAND

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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Criminal Action No. 08-10071-RGS

UNITED STATES OF AMERICA

*v.*

BRIMA WURIE

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Feb. 23, 2010

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**TRANSCRIPT OF PROCEEDINGS**

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APPEARANCES:

FOR THE PLAINTIFF:

UNITED STATES ATTORNEY'S OFFICE  
1 Courthouse Way, Suite 9000  
Boston, Massachusetts 02210  
BY: JOHN A. WORTMAN, JR., AUSA  
GRETCHEN LUNDREN, Attorney, AUSA

FOR THE DEFENDANT:

LAW OFFICES OF JOHN BENZAN  
Suite 8, P.O. Box 620667  
Newton Lower Falls, Massachusetts 02462  
BY: JOHN BENZAN, ESQ.

\* \* \* \* \*



[48]

Q When you got to the booking area at seven o'clock, what was going on?

A There was a person—the booking process was beginning. There were several of my squad members with that person behind the booking glass.

Q Could you describe the booking area and what goes on there?

A The booking area of C-6 is—if you're standing on one side, there's where the booking officer stands. There's a computer there, a counter area, a couple of landline phones.

On the other side there's a large plexiglass window, and on the other side of that is where the person arrested will stand with the police, with the arresting officers, and the process will be made, like photographs, fingerprints, biographical knowledge.

Q When you got to the booking area that night sometime around seven o'clock, was there a specific individual being booked?

A Yes.

Q Do you see him in the courtroom today?

A I do.

Q Could you point him out and describe what he's wearing.

A He's seated—he's now standing wearing a brown-colored suit jacket and tie.

Q Had you even seen that man before, as far as you know?

[49]

A No.

Q Did you learn his name?

A I did.

Q Were you familiar with his name prior to that date?

A No, not particularly

Q Now, when you got to the booking area and Mr. Wurie was being booked, what exactly did you do?

A I walked to the booking area, and I noticed there were two cell phones on the counter of that—of the booking area.

MR. WORTMAN: You honor, may I approach, please?

THE COURT: You may.

Q Officer Jones, I'm going to show you what's been marked as Exhibit 27 and ask you to take a look at that and tell me whether you recognize it.

A Yes.

Q Are those the two phones that were on the corner of the booking desk?

A Yes.

MR. WORMANN: Your Honor, I would offer these as Exhibit 27.

THE COURT: Twenty-seven.

(Government's Exhibit No. 27 received in evidence.)

BY MR. WORTMANN

Q What I'm going to do if I could, is put these two [50] phones on the camera for us all to take a look at.

While at the booking desk, did you notice anything unusual about the phone?

A The phone, as you're looking on the screen on the left side, the one that's not open, the LG phone—

Q That would be the one I just pointed to?

A Yes.

—that was continuously ringing.

Q Could you see anything on the screen of the phone?

A Yes.

Q What did you see?

A I'm not sure if it was on the front screen. This type of phone you can also open, almost like a book.

Q (Demonstrating.)

A Yes.

I'm not sure if it was on the front screen or this screen as you opened it, but there were several missed calls, and one of the entries of the missed calls read "my house."

Q When you opened up the phone, are you familiar with the term "wallpaper" on a phone?

A I am.

Q What is that?

A Essentially wallpaper is a corresponding picture that anyone can put on with a certain entry of the phone.

[51]

Q Was there a picture on that phone when you opened it up?

A Yes.

Q Do you recall what the picture was of?

A It was a younger black female holding a baby.

Q Did you meet that woman later on?

A Yes.

Q What did you learn her name to be?

A Yolanda Walker.

Q Did you see that baby later on?

A I did.

Q Now, once you opened the phone and saw the “my home” or “my house” number, did you do some further investigation with the phone?

A I did.

Q Tell us what you did, sir?

A I was able to retrieve the number that was associated with that entry, and I was able to do what we call a “reverse lookup” on this number. And a reverse

lookup is, essentially, I went on the Internet to a website called AnyWho.com, and if you have a phone number, you can enter it; and provided that number is a listed phone number, you can get the corresponding name and address associate with that number.

A Why was that of interest to you, sir?

A We wanted to investigate this matter further.

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