

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case Nos. 04-CR-160-JHP
)	
DEMARIO TERREL HARRIS,)	
)	
Defendant.)	

ORDER

This matter comes on for consideration of the Defendant’s Motion to Vacate filed on October 21, 2010 (Doc. 190). In light of the allegations therein, this Court hereby appoints, pursuant to 18 U.S.C. § 3006A, Stanley D. Monroe as counsel for the Defendant. The Government has filed a Response conceding that the Defendant’s conviction was obtained in violation of the Defendant’s due process rights. (Doc. 194). Based upon a review of the jury trial transcripts, this Court finds the impeachment evidence not disclosed to the Defendant was material to the outcome of the jury trial held herein and that it is “reasonably probable” that disclosure of this impeachment evidence to defendant’s counsel would have had an impact on the verdict.¹ Under the specific facts of this case, this Court finds it is proper to vacate

¹Officer Yelton was the affiant on the search warrant and the testimony of both Officer Yelton and Henderson was essential to Defendant’s criminal conviction.

and set the judgment² aside, discharge the defendant, and dismiss the indictment herein.

IT IS THEREFORE ORDERED that the Motion of the Defendant to Vacate (Doc. 190) is hereby GRANTED and the Court Orders the immediate release of the Defendant, Demario Terrell Harris. **IT IS FURTHER ORDERED** that the Indictment (Doc. 2) against the Defendant shall be DISMISSED with prejudice and all special monetary assessments and fines paid by the Defendant, pursuant to the Judgment which has now been vacated, shall be returned to the Defendant through his attorney of record, Stanley D. Monroe.

All pleadings previously sealed in this case are hereby ordered unsealed by this Court.

IT IS SO ORDERED on this 27th day of October, 2010.



JAMES H. PAYNE
UNITED STATES DISTRICT JUDGE

²The Judgment and Commitment was entered herein on December 14, 2005 (Doc. 84).