

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION - CINCINNATI


UNITED STATES OF AMERICA,	:	Case No. 1:19-cr-81
	:	
Plaintiff,	:	Judge Matthew W. McFarland
	:	
v.	:	
	:	
JAMES BARCLAY,	:	
	:	
Defendant.	:	

ORDER GRANTING MOTION TO DISMISS THE SUPERSEDING
INFORMATION AND INDICTMENT AGAINST DEFENDANT JAMES BARCLAY

This matter is before the Court on the Unopposed Motion to Dismiss the Superseding Information and Original Indictment (Doc. 150), as against Defendant James Barclay. Also before the Court is a letter submitted by Defendant Barclay (Doc. 152).

In the interests of justice, the Court **VACATES** Defendant Barclay's previously entered guilty plea, **REJECTS** Defendant Barclay's plea agreement, and **GRANTS** the unopposed motion to dismiss the charging documents against Defendant Barclay. Accordingly, the Court **DISMISSES WITH PREJUDICE** the Indictment and Superseding Information against Defendant Barclay.

IT IS SO ORDERED.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
By: 
JUDGE MATTHEW W. MCFARLAND

**JAMES BARCLAY
SPRINGBORO OH**

August 25, 2022

Hon. Matthew W. McFarland
U.S. District Court Judge
Southern District of Ohio
Potter Stewart U.S. Courthouse
105 East Fifth Street
Cincinnati, Ohio 45202

Re: United States v. Barclay, 1:19-cr-81

Dear Judge McFarland,

Thank you for the opportunity to submit this letter in support of the joint unopposed motion to dismiss this case. I finally have the opportunity to tell you what I have been saying since I was unexpectedly charged over three years ago.

Nobody should have to go through what my wife and I have gone through the last three years. I was falsely accused of conspiring to sell drugs illegally in West Virginia. I was indicted in July 2019, over two years after I had retired with nearly 25 years at Miami-Luken. I was always the accounts receivable manager, and in 2012, I agreed to assume additional responsibility by assisting the company's CEO with the compliance paperwork and responding to the DEA's many inquiries. I never had any authority to stop any order from shipment, designate any order as suspicious, or report anyone to the DEA. The written documents that were always in the possession of the DEA and the U.S. Attorney's Office confirm this, as do the many witnesses with whom I worked and handled orders for processing and shipment.

I was indicted because the DEA failed to do their job, and the government needed a scapegoat after the publicity of the opioid problems in West Virginia. Plus, for some half dozen times I requested guidance from the DEA on controlled drug issues, the DEA's only response was, "We can't tell you how to run your business, it's a business decision", if they responded at all. That was always their go-to answer. I only discovered later – through the diligent work of my attorneys – that this response was a written policy of the DEA in a confidential DEA Diversion Investigator's Manual that was not for public dissemination.

It was reported in a local newspaper that I was eluding law enforcement. I didn't know they were looking for me, and indeed, I never knew that there was any criminal investigation involving me. I retired in 2015, and no DEA investigator ever tried to contact me since I left the company. I was out of state to visit our grandchildren. In a DEA statement to the media, one DEA supervisor called me "a drug dealer with a degree", despite the fact that I only graduated from High School and never made more than

\$60,000 per year while I worked for Miami-Luken. When law enforcement came to arrest me, they questioned at least two neighbors as to my whereabouts. Before I was arraigned, I was ambushed in my driveway by a local TV reporter. Every place we went, we wondered what people were thinking and what they knew, or if they had heard what was going on. The day I turned myself in, I had never gone through anything so demeaning. I had a mugshot taken, I was fingerprinted, I was put into a holding cell, and then I was shackled like the criminals seen on TV and escorted to the courtroom.

This case has affected our entire family - our immediate family of three sons, their wives, and four grandchildren, as well as our many other relatives. Just as one example, our then six-year-old granddaughter, who had overheard a conversation shortly after we heard about the warrant for my arrest, wondered aloud what the "bad man" was going to do to her "Pop-Pop". Also, our oldest three grandchildren have always lived in Georgia and South Carolina. Finally, in February of 2019, we had a grandson born who lives one mile from us. However, when he was less than six months old, I was indicted, and our enjoyment of almost his entire young life has had the black cloud of this criminal case over it.

The case has taken over our lives for the last three years, and who knows how many of my remaining years it took out of my life. Since July 2019, the last thing I think of before I go to sleep and the first thing I think of when I wake up is this case. I have lived in this area for almost 50 years, and I am left wondering how to regain my reputation. Every day – and I mean every day – this case has consumed our lives. If we're not talking about it, we're thinking about it.

It has been a terribly long three years. I'll be told to try to put this behind me and get on with my life, but no one – and I mean no one – will know how it felt in July 2019 that my life may be over, as the indictment stated that I could serve up to 20 years in prison, which is where I would have died, serving time for something I did not, could not, and would not ever do. Perhaps the most upsetting and frustrating thing is that the DEA and the U.S. Attorney's Office had the information and access to information that showed that I should never have been charged in the first place.

I end this letter as it began: no Ohioan should have to go through this. Never in my 75 years, as an Army veteran and a law-abiding citizen, did I ever think that this could happen in our country. I thank both you and U.S. Attorney Kenneth L. Parker for having the courage and fortitude to correct this horrible wrong, and I only ask that our government work to ensure that it does not happen again.

Respectfully submitted,


JAMES BARCLAY