

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

OFFICE OF THE CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Cheech Mar
Venus Mar
?
Tammy Chong aka
Denise Rodman

Defendants.

8:13CR500

INDICTMENT

21 U.S.C. § 841(a)(1) & (b)(1)

21 U.S.C. §846

The Grand Jury Charges:

COUNT I

Beginning on or about Dec 1, 2012 and continuing to on or about Jan 31, 2013
in the District of Nebraska, Cheech Mar, Venus Mar

and Tammy Chong

a/k/a Denise Rodman the Defendants, knowingly and intentionally, combined,

conspired, confederated and agreed together and with each other, and with other persons known

and unknown to the Grand Jury, to commit the following offense against the United States:

distribution and possess with intent to distribute 500 grams or more of a mixture or substance

containing a detectable amount of methamphetamine, its salts, isomers, and salts of its isomers, a

Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

In violation of Title 21, United States Code, Section 846.

COUNT V

On or about [REDACTED], in the District of Nebraska, [REDACTED]

[REDACTED]

Defendants herein, did knowingly and intentionally possess with intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), and Title 21, United States Code Section 841(b)(1).

COUNT VI

On or about [REDACTED] in the District of Nebraska, *Denis Rodman*

aka Tammy Chong, Defendant herein, did knowingly and intentionally possess with intent to distribute a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1), and Title 21, United States Code Section 841(b)(1).

COUNT VII

On or about *Jan, 2, 2013* in the District of Nebraska, *Tammy Chong*

aka Denis Rodman, Defendant herein, did knowingly and intentionally distribute 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance.


In violation of Title 21, United States Code, Section 841(a)(1), and Title 21, United States Code Section 841(b)(1).

A TRUE BILL:

[REDACTED]
FOR PERSON

[REDACTED]
United States Attorney

The United States of America requests that trial of this case be held at Omaha, Nebraska, pursuant to the rules of this Court.



Thomas Niklitschek
Assistant United States Attorney

PRETRIAL SERVICES REPORT

District/Office District of Nebraska / Omaha	Charge(s) Distribution of Actual Methamphetamine- 21:841(a)(1)
Judicial Officer The Honorable <i>Gerrard</i>	
Docket Number 8:13CR500	

<i>Tammy Chong AKA Denis Rodman</i>	Date of Birth 10/02/84 (age 28)	Employer/School Unknown	
Address Unknown	Employer Address Unknown		
Time at Address Unknown	Time in Comm N/A	Monthly Income N/A	Time in Empl/School N/A

DEFENDANT HISTORY

According to the Immigration and Customs Enforcement (ICE), the defendant is a native and citizen of Mexico, residing within the United States illegally. As a result ICE has placed a detainer for deportation with the U.S. Marshals Service. The assistance of an interpreter was necessary to communicate with this defendant for purposes of completing the financial affidavit for the appointment of counsel.

1. DEFENDANT HISTORY / RESIDENCE / FAMILY TIES:

Information with regards to the defendant's past / present residency, family ties and educational history is unavailable at this time.

2. EMPLOYMENT HISTORY / FINANCIAL RESOURCES:

Information with regards to the defendant's past / present employment history and financial resources is unavailable at this time.

3. HEALTH:

Information with regards to the defendant's present physical and mental health is not available at this time.

Information pertaining to the defendant's past / present use or abuse of illicit chemicals or prescription medication is not available at this time.

Information regarding the defendant's participation in any form of substance abuse treatment is not available at this time.

4. **PRIOR RECORD:** The records of OPD, NCIC/NCIS, and the Nebraska Department of Motor Vehicles were accessed to compile the following criminal record of *Tammy Choy* DOB: 10/02/84:

<u>Date of Offense</u>	<u>Location</u>	<u>Charge</u>	<u>Disposition</u>
07/11/12	Omaha, NE	Conspiracy to Commit a Class 2 Felony (Felony) <i>*Instant Offense*</i>	08/13/12: BOUND OVER.
07/30/12	Omaha, NE/ICE	Alien Inadmissability* Under Section 212	<i>Pending.</i>

Information received from the Immigration and Customs Enforcement indicate the defendant has been charged with a crime of moral turpitude and requires mandatory detention. Therefore, a detainer has been lodged with the U.S. Marshal's Service against his release.

5. **ASSESSMENT OF NONAPPEARANCE:**

Pretrial Services considers the defendant a risk of nonappearance due to following reasons:

1. The defendant is alleged to be a citizen of a foreign country.
2. The defendant's ties to the District of Nebraska are unknown.
3. The Immigration and Customs Enforcement has lodged a detainer with the U.S. Marshal's Service against the release of the defendant.
4. Instant offense.

6. **ASSESSMENT OF DANGER:**

Pretrial Services considers the defendant to be a danger to the community due to the following reasons:

1. Offense charged.

7. **RECOMMENDATION:**

Pretrial Services considers the defendant a risk of nonappearance and a danger to the community. It is felt that no condition or combination of conditions exist to mitigate these concerns. Additionally, the defendant has been identified by the Immigration and Customs Enforcement as being an illegal alien in the United States. As a result, it is recommended the defendant remain detained pending disposition of this case.




Sr. U.S. Pretrial Services Officer

Date: Feb 2, 2013

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID : 343697111

FIN #: 10411111

File No: A300 700 915

DOB: 10/02/1984

Event No: OMA12070000111

In the Matter of: Tammy Chong AKA: Denis Rodman;

Respondent: _____ currently residing at:

1111 A St. OMAHA NEBRASKA 68105

(402) 477-3125

(Number, street, city and ZIP code)

(Area code and phone number)

- 1. You are an arriving alien.
- 2. You are an alien present in the United States who has not been admitted or paroled.
- 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You arrived in the United States at or near Nogales, AZ, on or about February 29, 2000; 1993
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212 (a) (6) (A) (i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

Cancellation of Removal

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30(f)(2) 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
OFFICE OF THE IMMIGRATION JUDGE 1717 Avenue H, Suite 100 Omaha NEBRASKA US 68110

(Complete Address of Immigration Court, including Room Number, if any)

on a date to be set at a time to be set to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

SDDO

(Signature and Title of Issuing Officer)

Date: Aug 1, 2012

Omaha, NE

(City and State)

See reverse for important information

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at http://www.ice.gov/about/dro/contact.htm. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Act.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

Before:

[Redacted signature area]

IEA

(Signature and Title of Immigration Officer)

(Signature of Respondent)

Date: 8/1/2012

Certificate of Service

This Notice To Appear was served on the respondent by me on 8/1/2012, in the following manner and in compliance with section 239(a)(1)(F) of the Act.

- in person by certified mail, returned receipt requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the Spanish/English language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Tammy Chang

(Signature of Respondent if Personally Served)

[Redacted signature area]

(Signature and Title of officer)

File No. A300700915

Event No: OMA1207000011

Date: 8/1/2012

FINS #: 104111111

To any officer delegated authority pursuant to Section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:

Tammy Chang AKA: Denis Rodman

(Full name of alien)

Nogales, AZ

an alien who entered the United States at or near _____ on _____ (Port)

May 1993

(Date)

is within the country in violation of the immigration laws and is

therefore liable to being taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.

[Redacted Signature]

(Signature of Designated Immigration Officer)

[Redacted Name]
(Print name of Designated Immigration Officer)

SDDO

(Title)

Certificate of Service

Served by me at Omaha, NE on 8/1/2012 at 12:00 AM

I certify that following such service, the alien was advised concerning his or her right to counsel and was furnished a copy of this warrant.

[Redacted Signature]

(Signature of officer serving warrant)

IEA

(Title of officer serving warrant)

Tammy chong AKA: Denis Rodman

Event No: OMA12070000
File No: A300700915
Date: 8/1/2012
FIN#: 104110111

1111 A St.
OMAHA, NEBRASKA 68105

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that pending a final determination by the immigration judge in your case, and in the event you are ordered removed from the United States, until you are taken into custody for removal, you shall be:

- detained in the custody of the Department of Homeland Security.
- released under bond in the amount of \$ _____
- released on your own recognizance.

- You may request a review of this determination by an immigration judge.
- You may not request a review of this determination by an immigration judge because the Immigration and Nationality Act prohibits your release from custody.

[Redacted Signature]

(Signature of authorized officer)

SDDO

(Title of authorized officer)

Omaha, NE

(Office location)

- I do do not request a redetermination of this custody decision by an immigration judge.
- I acknowledge receipt of this notification.

[Redacted Signature]

(Signature of respondent)

8/1/2012
(Date)

RESULT OF CUSTODY REDETERMINATION

On _____, custody status/conditions for release were reconsidered by:

- Immigration Judge DHS Official Board of Immigration Appeals

The results of the redetermination/reconsideration are:

- No change - Original determination upheld. Release - Order of Recognizance
- Detain in custody of this Service. Release - Personal Recognizance
- Bond amount reset to _____ Other: _____

(Signature of officer)



File No: A300700915
Date: 8/1/2012
Event No: OMA120700001211

Name: Tammy Chong AKA: Deni's Redman

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

You must report for any hearing or interview as directed by the Department of Homeland Security or the Executive Office for Immigration Review.

You must surrender for removal from the United States if so ordered.

You must report in (writing) (person) to Sam Bam Deportation Officer
(Name and Title of Case Officer)
at 1717 AVE H Omaha, NE 68110 on 1 WED of each month Sept 5th at 5th
(Location of DHS Office) (Day of each week or month) (Time)

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

You must not change your place of residence without first securing written permission from the immigration officer listed above.

You must not violate any local, State, or Federal laws or ordinances.

You must assist the Department of Homeland Security in obtaining any necessary travel documents.

Other: _____

See attached sheet containing other specified conditions (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Department of Homeland Security.

1111 A St.
Omaha Ne 68105

[Redacted Signature]

(Signature of DHS Official)

SDDO

(Printed Name and Title of Official)

Alien's Acknowledgment of Conditions of Release on Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the Spanish/English language) and understand the conditions of my release as set forth in this order. I further understand that if I do not comply with these conditions, the Department of Homeland Security may revoke my release without further notice.

[Redacted Signature]
(Signature of Immigration Officer Serving Order)

Tammy Chong
(Signature of Alien)

8/1/2012
(Date)

Cancellation of Order

I hereby cancel this order of release because: The alien failed to comply with the conditions of release.

The alien was taken into custody for removal. [Redacted Signature]
(Signature of Immigration Officer Canceling Order)

1/1/2013
(Date)



U.S. Department of Homeland Security
Immigration and Customs Enforcement

January 9, 2013—Non-Detained-

Office of Chief Counsel

1717 Avenue H Suite 174
Omaha, Nebraska 68110

Paul R. Stultz, Deputy Chief Counsel (402) 536-4800
Matthew E. Morrissey, Assistant Chief Counsel (402) 536-4805
Main number (402) 536-4804
Facsimile (402) 536-4809

Office of the Immigration Judge
1717 Avenue H, Suite 100
Omaha, NE. 68110

Subject(s): Tammy Chong
A 300 700 915

U.S. Immigration Judge: Morris
Next Hearing Date: ICH on 12/7/2016

Enclosed please find exhibits for removal hearing:

I-261, pages 1-2

Other:

PROOF OF SERVICE

On the date below, I, Matthew Morrissey, Assistant Chief Counsel, mailed a copy of the attached filing to respondent through counsel at:

, Esq.
308 S. 19th Street
Omaha, NE. 68102

by placing said copy in an envelope and placing said envelope in my office's receptacle designated for official "out-going" regular mail, said envelope having been addressed to the name and address indicated.


Office of the Deputy Chief Counsel

1/11/2013
Date

In: Removal proceedings under section 240 of the Immigration and Nationality Act

Deportation proceedings commenced prior to April 1, 1997 under former section 242 of the Immigration and Nationality Act

In the matter of:

Alien/Respondent: Tammy chong

File No: 300700915 Address: 1111 A St. OMAHA NEBRASKA 68105 UNITED STATES

There is/are hereby lodged against you the additional charge(s) that you are subject to being taken into custody and deported or removed from the United States pursuant to the following provision(s) of law:

212a2C SUSPECTED CONTROLLED SUBSTANCE TRAFFICKER

In support of the additional charge(s) there is submitted the following factual allegation(s) in addition to in lieu of those set forth in the original charging document:

You are or have been an illicit trafficker of a controlled substance, or were or have been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking of a controlled substance, to wit: Methamphetamine.

Dated: 1/1/2013

 (A) AFOD

(Signature of Service Counsel)

Notice of Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office of the Immigration Review. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with you case. If any document is a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all the allegations in the charging document and that you are inadmissible or deportable on the charges contained in the charging document. You will have an opportunity to present evidence on you own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the INS, in writing, with you full mailing address and telephone number. You must notify the Immigration Court immediately by using form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide and address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

Certificate of Service

This charging document was served on the respondent by me on 1/7/2013 in the following manner and in compliance with section 239(a)(1)(F) of the Act:

(Date)

in person by certified mail, return receipt requested by regular mail

to: Tammy Chong - DOUGLAS COUNTY NE CORRECTIONS
 (Alien's Address)

The alien was provided oral notice in the ENGLISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act

 (Signature and title of officer)

 (Signature and title of officer)



REF

[Redacted signature]

[Redacted text] DO-OMA

U.S. Department of Homeland Security

subject ID : 304911111

Record of Deportable/Inadmissible Alien

Family Name (CAPS) CHONG		First Tammy	Middle	Sex F	Hair BLK	Eyes BRO	Complexion MED
Country of Citizenship MEXICO	Passport Number and Country of Issue	File Number Case No: XOJ1103000 A300700915		Height 5'1	Weight 35	Occupation LABORER	
U.S. Address 5084 SOUTH 106TH AVENUE OMAHA, NEBRASKA, 68127,				Scars and Marks			
Date, Place, Time, and Manner of Last Entry 08/16/2006, Unknown Time, ELP, WITHOUT INSPECTION				Passenger Boarded at			
Number, Street, City, Province (State) and Country of Permanent Residence				Seq Narrative			
Date of Birth 10/2/1984	Age: 28	Date of Action 03/15/2011	Location Code XMS/KOJ	F.B.I. Number 208227		<input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated	
City, Province (State) and Country of Birth VERACRUZ, MEXICO		AR <input checked="" type="checkbox"/>	Form (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>	Method of Location/Apprehension L 511.2.3			
NIV Issuing Post and NIV Number		Social Security Account Name		Ad/Near Omaha, Nebraska		Date/Hour 03/15/2011 1300	
Date Visa Issued		Social Security Number		By Clyde Buck			
Immigration Record POSITIVE - See Narrative		Criminal Record None Known					
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate) 1111st. Omaha Ne 68105			Number and Nationality of Minor Children 1 MINOR CHILDREN				
Father's Name, Nationality, and Address, if Known CONNIE CHONG			Mother's Present and Maiden Name, Nationality, and Address, if Known MEXICO				
Monies Due/Property in U.S. Not in Immediate Possession None Claimed		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Checks	Charge Code Word(s) IAFIS Pos IFA1			
Name and Address of (Last)(Current) U.S. Employer		Type of Employment	Salary	Employed from/to			
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.) FINS: 16420848 Left Index fingerprint Right Index fingerprint							
							
Other Criminal							
SCARS, MARKS, AND TATTOOS							
SCAR FOREARM, LEFT - 2 INCHES - MOTORCYCLE ACCIDENT							
... (CONTINUED ON I-831)							
Alien has been advised of communication privileges 3/15/11 (Date/initials)			Special Agent  (Signature and Title of Immigration Officer)				
Distribution		Received: (Subject and Documents) (Report of Interview)					
A file		Officer: 					
Stat		on March 15, 2011 at 1450 (time)					
DRO		Disposition: REINSTATEMENT OF DEPORT ORDER I-871					
		Examining Officer: 					

Alien's Name CHONG G, Tammy	File Number A300700915 Event No: XOJ1103000/118	Date 03/15/2011
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Record of Deportable/Excludable Alien:

On March 15, 2011, the Resident Agent in Charge (RAC) Omaha and the Social Security Administration, Office of Inspector General (SSA-OIG) executed a search warrant at 5306 O Street, Omaha, NE. Agents identified several males at the residence involved in a counterfeit document scheme. One male, later identified as Denis Rodman, a national and citizen of Mexico, was located at her residence, 1111 A Street. Denis Rodman was not in possession of any valid documents authorizing her to live or work in the United States. Denis Rodman was placed under arrest and transported to the Omaha office of Enforcement and Removal Operations for processing.

Denis Rodman admitted his name was Tammy Chong, dob: 10/02/1984, a national and citizen of Mexico. Tammy Chong was excluded from the United States at El Paso, Texas on 01/23/2005. Tammy Chong said that she entered the United States at/or near El Paso, Texas, via foot, on/or about 02/23/2005 without inspection or admission by an Immigration officer. Tammy Chong said that she has lived in Omaha, NE, for approximately the last six years. Tammy Chong admitted that she did not have any applications or petitions pending with USCIS.

Tammy Chong was detained without bond pending federal prosecution.

Tammy Chong was issued a Notice to Appear and placed in removal proceedings.

Signature 	Title Special Agent
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA)

vs.)

TAMMY CHONG)

) PRESENTENCE INVESTIGATION REPORT

) 8:13CR500

Prepared for: The Honorable John M. Gerrard
U.S. District Judge

Prepared by: [REDACTED]
U.S. Probation Officer
Omaha, NE

Assistant U.S. Attorney
Thomas Nikitschek
1620 Dodge Street
Suite 1400
Omaha, NE 68102-1506
(402) 661-3700

Thomas.nikitschek@usdoj.gov

Defense Counsel
Raul Guerra
308 South 19th Street
Suite 300
Omaha, NE 68102
(402) 884-0700

Sentence Date: May, 31, 2013

Offense: Count 1: Conspiracy to Distribute and Possess with Intent to Distribute Methamphetamine; 21 U.S.C. § 846 and 21 U.S.C. § 841(b)(1)(A); 10 - life imprisonment; \$10,000,000 fine; 5 years - life supervised release; \$100 special assessment (Class A Felony)

Arrest Date: October 14, 12 (related federal arrest)
October 21, 12 (federal warrant)

Release Status: In custody as of October, 14, 2013

Detainers: None. (ICE)

Codefendants: Cheech Mar and Venus Mar

Related Cases: None.

Date to Counsel: Feb, 21, 2013

Date to Court: March 30, 2013

Chong, Tammy

Identifying Data:

Legal Name: Tammy Chong
Date of Birth: 10/02/84
Age: 28
Race: White
Hispanic Origin: Hispanic origin
Sex: Male

SSN's Used: III-11-1111
III-11-1111

FBI #: KC0
USM #: 6047
Driver's License #: None
Other IDs: None.
ICE #: A 300 800 915
PACTS #: 20200

Education: 6th grade
Marital Status: Single
Dependents:
Citizenship: Mexico
Place of Birth: Mexico
Legal Address: Mexico

Current Address: 1111 A St.
Omaha Ne 68105

E-mail Address: None

Alias(es): None.

Other DOBs used: October 16, 1976

CHONG, Tammy

PART A. THE OFFENSE

Charge(s) and Conviction(s)

1. Ms. Tammy Chong was arrested on drug charges on Oct 14, 2012. On Nov 1, 2012, a Criminal Complaint was filed in the District of Nebraska, charging her with drug conspiracy. On Nov 19, 2012, Ms. Chong made her initial appearance on the Complaint before United States Magistrate Judge Thomas D. Thalken. She was remanded to the custody of the U.S. Marshals Service.
2. On Nov 10, 2012, a seven count Indictment was filed in the District of Nebraska. Ms. Chong is not named in Counts II-V of the Indictment.
3. Count I charged that beginning on or about September 1, 2011, and continuing to on or about October 5, 2012, in the District of Nebraska, Cheech Mar and Venus Mar, and Tammy Chong, a/k/a Denis Rodman, the defendants, knowingly and intentionally combined, conspired, confederated and agreed together and with each other, and with other persons known and unknown to the Grand Jury, to commit the following offense against the United States: distribution and possess with intent to distribute 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and 846.
4. Count VI charged that on or about October 5, 2012, in the District of Nebraska, Tammy Chong a/k/a Tammy Chong did knowingly and intentionally possess with intent to distribute a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and 841 (b)(1).
5. Count VII charged that on or about August 31, 2012, in the District of Nebraska, Tammy Chong, a/k/a Tammy Chong, did knowingly and intentionally distribute 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1).
6. Ms. Chong was arrested on a federal warrant on Oct 21, 2012. He made his initial appearance and arraignment on the Indictment that same date before United States Magistrate Judge F. A. Gossett. He entered not guilty pleas. Ms. Chong was remanded to the custody of the U.S. Marshals Service.
7. On December 26, 2012 Ms. Chong appeared before United States Magistrate Judge and entered a guilty plea to Count I of the Indictment. It was recommended that the plea and Plea Agreement be accepted at or before sentencing. A Presentence Investigation Report was ordered. Sentencing is scheduled for May 31, 2013.

CHONG, Tammy

Plea Agreement

8. In exchange for the defendant's guilty plea to Count I, the government will dismiss the remaining counts at the time of sentencing. Unless otherwise stated, all stipulations set forth in the Plea Agreement as to sentencing issues are made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B).
9. The United States will move to dismiss Counts VI and VII at the time of sentencing as they relate to this defendant. The parties agree that the defendant should be held responsible, beyond a reasonable doubt, for at least 500 grams but less than 1.5 kilograms of a mixture or substance containing methamphetamine, and, therefore, pursuant to United States Sentencing Guidelines (U.S.S.G.) § 2D1.1, the defendant's base offense level is 32.
10. If the defendant is found to be entitled to an offense level reduction under U.S.S.G. § 3E1.1(a) for acceptance of responsibility, the government moves that the Court reduce the offense level by one additional level pursuant to U.S.S.G. § 3E1.1(b), if that paragraph otherwise applies. The parties agree the defendant is not subject to upward or downward adjustments for role in the offense.
11. Any cooperation provided by the defendant will be considered by the government pursuant to U.S.S.G. § 5K1.1, and/or 18 U.S.C. § 3553(e), and/or Rule 35(b). The parties agree that the defendant may not request or recommend a downward departure based on U.S.S.G. § 4A1.3 or sentence reductions under 18 U.S.C. § 3553, and that the government may oppose any such downward adjustments, departures, and reductions. The defendant agrees to significantly limit his right to appeal the conviction and sentence in this case. The defendant agrees to pay a \$100 special assessment fee for each felony count of conviction.

Pretrial Adjustment

12. Not applicable.

Codefendants

13. Cheah Mar pled guilty to Count I of the Indictment. Sentencing is scheduled for May, 31 2013.
14. Venus Mar pled guilty to Count I of the Indictment. Sentencing is scheduled for May, 31, 2013.

Related Cases

15. None.

CHONG, Tammy

The Offense Conduct

16. The following is a transcript of the prosecutor's version of the offense as submitted by Assistant U.S. Attorney Thomas Niklitschek:
17. "In June, 1 2012, law enforcement began utilizing a cooperating witness who began purchasing quantities of methamphetamine from co-defendants Cheech and Venus Mars at their residence. On July, 1 2012, after four controlled purchases from the Mars, law enforcement executed a search warrant on their residence. Inside the residence officers found both Cheech and Venus Mars, approximately 740 grams of methamphetamine and other drug paraphernalia. Both Mars were interviewed and admitted their involvement in distributing methamphetamine in the Madison NE area along with the defendant Tammy Chong:
18. "Thereafter, officers located Tammy Chong driving in the area and conducted a traffic stop. In his possession officers found a small amount of methamphetamine. During a subsequent interview Tammy Chong admitted to being a user of methamphetamine and involved in its distribution."

/s/ Thomas Niklitschek
19. The defendant submitted the following written version of the offense: "weed just wasn't enough, and I began using & selling meth-
20. During the investigation of this case, this officer reviewed investigative reports which included laboratory reports and proffers. This officer also spoke with Special Agent (SA) Strong Arm with the Drug Enforcement Agency. According to a Cooperating Witness (CW), a co-conspirator supplied methamphetamine to the defendant from November 2011 through April 2012. The defendant purchased ¼ pound of methamphetamine every 5-7 days. Conservatively, this equates to a pound monthly for six months. The six pounds converts to 2.72 kilograms. According to the government, this drug quantity has not been corroborated and, therefore, should not be attributed to MS Chong. Additionally, the CW stated the defendant fronted him/her a pound of methamphetamine toward the end of August 2012, for \$15,000. The CW gave defendant a new BMW. The new BMW was considered collateral for the pound of methamphetamine that was fronted. The BMW was located inside the defendant's residence garage.
21. Co-conspirators admitted they had purchased ¼ pound of methamphetamine from the defendant from the beginning or middle of August 2012. The defendant had knowledge of his co-conspirators' drug trafficking activity and had borrowed methamphetamine from them on two occasions. Drug transactions occurred with the defendant and the Mars at their residence and elsewhere. According to the government, the defendant had knowledge the Mars possessed methamphetamine at their residence due to prior drug activities occurring amongst them. Although the defendant was not present nor did he deliver the 742 grams to the Mars, he is accountable for this drug quantity due to the relevant conduct provision which states "in the case of a jointly undertaken criminal

CHONG, Tammy

activity, all reasonably foreseeable acts and omissions of others in furtherance of the jointly criminal activity” are to be considered. As a result of the defendant’s drug activities with co-conspirators, she is accountable for the ¼ pound provided to the co-conspirators and the 742 grams of methamphetamine located at the MARS’ residence.

22. The 742 grams of methamphetamine located at the MARS’ residence had a net weight of 663.07 with a 95% purity. The drugs were delivered to their residence on October 4, 2012, by Flaco and Bertolo . The defendant was the middle man between Flaco and the MARS . SHE provided drugs to the MARS which he obtained from Flaco . The methamphetamine was tested for purity at the Nebraska State Patrol (NSP) Laboratory. When testing for actual purity of methamphetamine, the NSP Laboratory uses a +/-10% confidence level. Based on the purity of the methamphetamine, the defendant is accountable for 566.93 grams of actual methamphetamine. The government advised the Probation Office that the parties agreed in the Plea Agreement to a mixture of methamphetamine due to the results of the methamphetamine purity not being received prior to the parties entering into their Plea Agreement. As a result of the defendant being accountable for actual methamphetamine and not a mixture of methamphetamine, his base offense level is outside the Plea Agreement.
23. In regard to the hierarchy of the conspiracy, Ms. Chong was one of MARS’ suppliers. The defendant worked for an individual by the nickname “Flaco.” SHE travelled to/from various cities to obtain drugs. Drug proceeds were deposited into bank accounts under the direction of Flaco . The defendant’s role in the conspiracy does not rise to the level of him receiving either a role reduction or enhancement. In regard to the safety valve provision, the Assistant U.S. Attorney stated the defendant has not met the criteria to be safety valve eligible at this time.
24. It should also be noted that the following items were located inside the defendant’s residence when the search was executed: a marijuana Peace Flag, a Social Security card in the name of Tammy Chong with a false Social Security number; a Nebraska State Identification card in the name Tammy Chong ; and a Colorado State ID in the name of Steve Iva Boo with a date of birth of Jan, 1, 1960

Victim Impact

25. The nature of the instant offense or the defendant’s criminal history may present a third party risk to an employer, individual, or group. If such a risk is identified, the defendant will be given a reasonable opportunity to notify the subject(s). However, in the event the defendant does not explain the possible risk, the U.S. Probation Officer will notify the appropriate party or parties of the potential harm, loss, or injury that exists. Presently, no third party risk is identified.

Adjustment for Obstruction of Justice

26. The probation officer has no information indicating the defendant impeded or obstructed justice.

CHONG, Tammy

Adjustment for Acceptance of Responsibility

27. The defendant clearly demonstrated acceptance of responsibility by pleading guilty and by acknowledging involvement in the instant offense in the Petition to Enter a Plea of Guilty. Additionally, the government was timely notified of the defendant's intention to plead guilty. Pursuant to U.S.S.G. § 3E1.1(a) and (b), the offense level is reduced three levels.

Offense Level Computation

28. The 2012 Guidelines Manual, incorporating amendments effective November 1, 2012, has been used in assessing this case. In light of the Supreme Court opinion issued January 15, 2005, in United States v. Booker, 125 S. Ct. 738 (2005), the Federal Sentencing Guidelines are now advisory. According to Booker, while not bound by the Sentencing Guidelines, the Court must consult the Guidelines and take them into account when sentencing.

Count 1: Conspiracy to Distribute and Possess with Intent to Distribute Methamphetamine

29. **Base Offense Level:** The guideline for a violation of 21 U.S.C. § 846 is located at U.S.S.G. § 2D1.1. This section provides that an offense involving at least 500 grams but less than 1.5 kilograms of actual methamphetamine has a base offense level of 36, pursuant to U.S.S.G. § 2D1.1(a)(5)(c)(2). MS. Chong is accountable for 566.93 grams of actual methamphetamine. **36**
30. **Specific Offense Characteristics:** According to the Assistant U.S. Attorney, the defendant has not met the criteria to be safety valve eligible at this time. **0**
31. **Victim Related Adjustment:** None. **0**
32. **Adjustment for Role in the Offense:** None. **0**
33. **Adjustment for Obstruction of Justice:** None. **0**
34. **Adjusted Offense Level (Subtotal):** **36**
35. **Chapter Four Enhancement:** None. **0**
36. **Acceptance of Responsibility:** The defendant has clearly demonstrated acceptance of responsibility for the offense. Accordingly, the offense level is decreased by two levels. U.S.S.G. § 3E1.1(a). **-2**
- The government has motioned for the third level reduction. Pursuant to U.S.S.G. § 3E1.1(b), the offense level is reduced one additional level. **-1**
37. **Total Offense Level:** **33**

CITONG, Tammy

PART B. THE DEFENDANT'S CRIMINAL HISTORY

38. The following records have been researched to determine the extent of the defendant's criminal record: National Crime Information Center (NCIC); Nebraska Crime Information Service (NCIS); Omaha (NE) Police Department; Douglas County Court (Omaha, NE); and ICE records.

Juvenile Adjudication(s)

39. None.

Adult Criminal Conviction(s)

40. Ms. Chong's only convictions are traffic related. She has convictions for driving under suspension (x2) and speeding. Pursuant to U.S.S.G. § 4A1.2(c)(1) and (2), no criminal history points are assessed.

Criminal History Computation

41. The defendant has 0 criminal history points. According to the sentencing table in U.S.S.G. Chapter 5, Part A, a criminal history score of 0 establishes a Criminal History Category I.

Other Criminal Conduct

	<u>Date of Arrest</u>	<u>Charge</u>	<u>Agency</u>	<u>Disposition</u>
42.	09/15/91 (Age 20)	Entry without Inspection	Bureau of Immigration and Customs Enforcement (Sioux Falls, SD)	07/20/2000: Deported

The defendant admitted she was working at Taco bell, in Los Angeles, CA, under the alias Mary Jane. She admitted to Immigration agents she illegally entered the United States in June 1999, near El Paso, Texas.

43.	4/1/07 (Age 25)	Alien Inadmissibility Under Section 212	Bureau of Immigration and Customs Enforcement (Omaha, NE)	Unknown date: Ordered removed
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Immigration records disclosed that the defendant would be processed as a Final Order absconder.

CHONG, Tammy.

Pending Charges

44. None.

Other Arrests

45. None.

PART C. OFFENDER CHARACTERISTICS

46. Defense counsel declined to have the defendant participate in an interview on 1/1/2013

47. The following information, unless otherwise noted, was obtained from the defendant's personal history packet and ICE records.

Personal and Family Data

48. ... Tammy Chong was born on Oct 02, 1984 in Ciudad Juarez, Chihuahua, Mexico, to Tommy Chong and Mama Chong. The defendant's father is deceased. Mama, age 66, resides in Norfolk, Nebraska. Immigration records disclosed that her mother immigrated to the United States via the Amnesty Program. She reportedly filed an I-130 petition on behalf of the defendant in August 1999.

49. Ms. Chong has three sisters and a half-brother. Her sisters are: Left Chong age 40; Right Chong age 38; and Square Chong age 37. Her sisters reside in Norfolk. She stated Left is employed by Tyson Foods. Her half-brother, Circle Chong age 23, resides in Norfolk. She reportedly has a "good" relationship with his siblings and they have helped him financially and emotionally.

50. In regard to his formative years, Ms. Tammy Chong stated she was born and raised in Mexico. After her parents separated when she was six years old, she primarily resided with her father, but continued to have a "really good" relationship with her mother.

51. The defendant stated she was never abused as a child and never removed from her home. She left home at age 18, and relocated to Norfolk, Nebraska. Although Ms. Tammy Chong reportedly resided in Norfolk while in the United States; Immigration records disclosed that she also resided in the state of South Dakota and worked in Sioux Falls, South Dakota. The defendant was deported in July 2002.

52. Ms. Tammy Chong has been in a relationship with Pepsi Cola age 25 (DOB: 01/12/88), for many years. She resides in Norfolk, Nebraska. She plans to reside with Pepsi once she is released from prison. Three children were born from this relationship: Lee Chong age 13; Mee Chong age 11; and Fee Chong age 6. They reside in Norfolk with

CHONG, Tammy

Physical Condition

53. Tammy chong is a Caucasian/Hispanic woman who stands 5'1" and weighs 170 pounds. She has brown eyes and black hair. She has nine tattoos, which include the names of his parents, children, and boyfriend Pepsi. She reported no disabilities. She indicated she suffers from high blood pressure, for which she takes medication. The defendant stated she has no known allergies.

Mental and Emotional Health

54. Ms. Tammy chong stated she has never been diagnosed with any mental health issues.

Substance Abuse

55. The defendant has a history of using alcohol and drugs. Ms. Tammy chong stated she first consumed alcohol at age 15, drinking one to three times monthly. She last drank in October 2012.
56. The defendant stated she first used methamphetamine at age 25, using the drug daily. She last used methamphetamine on July, 1, 2012. She admitted this was her drug of choice. She first used cocaine at age 15, using the drug one to five times weekly and last using cocaine in 2006. Ms. Tammy chong admits having a drug problem, but does not believe she would benefit from treatment. She has never received drug treatment.

Educational, Vocational and Special Skills

57. Ms. Tammy chong has a sixth grade education from Mexico.
58. The defendant stated she would like to earn his GED and take classes in mechanics.

Employment Record

59. **2008-2010:** The defendant stated she was employed as a construction worker and laborer in Omaha, NE earning \$15 an hour. She reportedly lost this job as a result of her contractor no longer receiving jobs.
60. **2007:** According to ICE records, the defendant was employed by Smoke Packing LLC in Nebraska, working under the alias Denis Rodman.
61. **July-September 1999:** ICE records disclosed that the defendant was employed by State Foods, located in Sioux Falls, South Dakota, under the alias Denis Rodman.

Military

62. Not applicable.

CHONG, Tammy

Financial Condition: Ability to Pay

63. Financial information was obtained from the personal history packet.

Analysis

64. The defendant reported no income, assets, liabilities, or monthly expenses. She did mention that her boyfriend and children are experiencing financial problems. The defendant's boyfriend is employed. It should be noted that the defendant has retained counsel. Community restitution should not be imposed if no fine is imposed. The \$100 special assessment should be paid out of his prison earnings.
65. The Court is reminded of the Bureau of Prisons' Inmate Financial Responsibility Program, effective March 27, 1987, which assists prisoners through various UNICOR programs in paying special assessments, court-ordered restitution, fines, court costs, and other financial obligations.

PART D. SENTENCING OPTIONS

Custody

66. **Statutory Provisions:** Count 1: 10 years-life. 21 U.S.C. § 841(b)(1)(A). Class A felony.
67. **Guideline Provisions:** Based upon a Total Offense Level 33 and a Criminal History Category I, the guideline imprisonment range is 135-168 months.

Impact of Plea Agreement

68. While computing the present guideline range, this officer took into consideration the defendant's acceptance of responsibility. This officer disagreed with the drug quantity and base offense level established in the Plea Agreement. If the Court honors the Plea Agreement, the defendant will have a Total Offense Level 29 and a Criminal History Category I, resulting in a mandatory guideline imprisonment range of 120 months and a fine range of \$15,000-\$10,000,000. The presentence report determined the total offense level is 33, based on the purity of the methamphetamine. This results in a guideline imprisonment range of 135-168 months and a fine range of \$17,500-\$10,000,000. The defendant would avoid serving an additional 15-48 months imprisonment if the Court honors the Plea Agreement. The government agreed to dismiss the remaining counts. Dismissing the remaining counts has no impact since the quantity of drugs in those counts were determined to be relevant conduct and were included in the base offense level. If the government should file a motion for downward departure based upon "substantial assistance," this may significantly impact the defendant's sentence.

Supervised Release

69. **Statutory Provisions:** 5 years - life. 21 U.S.C. § 841(b)(1)(A).
70. **Guideline Provisions:** 5 years - life. U.S.S.G. § 5D1.2(c).

CHON G, Tammy

Probation

- 71. **Statutory Provisions:** Ineligible. 21 U.S.C. § 841(b)(1)(A).
- 72. **Guideline Provisions:** Ineligible. U.S.S.G. § 5B1.1(b)(2).

Fines

- 73. **Statutory Provisions:** \$10,000,000. 21 U.S.C. § 841(b)(1)(A).
- 74. A special assessment of \$100 is mandatory. 18 U.S.C. § 3013.
- 75. **Guideline Provisions:** \$17,500 to \$10,000,000. U.S.S.G. § 5E1.2(c)(3) and (c)(4).

Restitution

- 76. **Statutory Provisions:** The restitution provisions of 18 U.S.C. § 3663(a)(1)(A) apply in this case and there is no identifiable victim. Community restitution may be ordered in offenses where the defendant has been convicted under 21 U.S.C. § 841, 848(a), 849, 856, 861 or 863 and the Court has considered the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and any other factors as the Court deems appropriate in determining whether to award this type of restitution. 18 U.S.C. §§ 3663(c)(1) and 3663(a)(1)(B)(i)(II).
- 77. **Guideline Provisions:** There is no identifiable victim and the defendant was convicted of an offense involving 21 U.S.C. § 841, 848(a), 849, 856, 861, or 863. Therefore, the Court, taking into consideration the amount of public harm caused by the offense and other relevant factors, shall order an amount of community restitution not to exceed the fine imposed under U.S.S.G. § 5E1.2. U.S.S.G. § 5E1.1(d).

Denial of Federal Benefits

- 78. **Statutory Provisions:** Pursuant to 21 U.S.C. § 862(e), denial of federal benefits is not applicable to individuals who provide cooperation or testify for the government in a state or federal offense.

PART E. FACTORS THAT MAY WARRANT DEPARTURE

- 79. Counsel were requested to provide this officer with any information warranting a departure. To date, no information has been received.
- 80. Pursuant to 18 U.S.C. § 3553(e) and U.S.S.G. § 5K1.1, upon motion by the government for downward departure for substantial assistance, the Court may depart from the statutory minimum sentence and the applicable guideline imprisonment range.

CHONG, Tammy

PART F. FACTORS THAT MAY WARRANT A SENTENCE OUTSIDE OF THE ADVISORY GUIDELINE SYSTEM

81. Counsel were requested to provide this officer with any information warranting a variance. To date, no information has been received.
82. This officer has not identified any factors under 18 U.S.C. § 3553(a) that may warrant a variance and imposition of a non-guideline sentence.

Respectfully Submitted,


U.S. Probation Officer

Reviewed and approved for
guidelines application by:



Supervising U.S. Probation Officer

Restrictions on Use and Redisclosure of Presentence Investigation Report. Disclosure of this presentence investigation report to the Federal Bureau of Prisons and redisclosure by the Bureau of Prisons is authorized by the United States District Court solely to assist administering the offender's prison sentence (i.e., classification, designation, programming, sentence calculation, pre-release planning, escape apprehension, prison disturbance response, sentence commutation, or pardon) and other limited purposes, ***including*** deportation proceedings and federal investigations directly related to terrorist activities. If this presentence investigation report is redisclosed by the Federal Bureau of Prisons upon completion of its sentence administration function, the report must be returned to the Federal Bureau of Prisons or destroyed. It is the policy of the federal judiciary and the Department of Justice that further redisclosure of the presentence investigation report is prohibited without the consent of the sentencing judge.

CHONG, Tammy

ADDENDUM TO THE PRESENTENCE REPORT

Feb , 29, 2013

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA
UNITED STATES v. TAMMY CHONG **DKT. 8:13CR600**

The probation officer certifies that the Presentence Investigation Report, including any revision thereof, has been disclosed to the defendant, defense counsel, and counsel for the government, and that the content of the Addendum has been communicated to counsel. The Addendum fairly states any remaining objections.

OBJECTIONS

By the Government

Objection to Paragraphs#21-23, & 30: “The government objects to the weight in the PSR as it does not comply with what has been signed by parties in the plea agreement.”

Probation Officer’s Response: The Probation Office is not bound by the Plea Agreement. Note B under the drug quantity table in U.S.S.G. § 2D1.1 states that “In the case of a mixture or substance containing PCP, amphetamine, methamphetamine, use the offense level determined by the entire weight of the mixture or substance, or the offense level determined by the weight of the PCP (actual), amphetamine (actual), or methamphetamine (actual), whichever is greater.” This officer reviewed investigative reports to include laboratory reports to determine the quantity of drugs attributed to the defendant. In this particular case, the methamphetamine was tested for purity. The purity of the methamphetamine was calculated and detailed in ¶23. The quantity of methamphetamine (actual) resulted in a higher Base Offense Level for the defendant than if a mixture of methamphetamine was used. Pursuant to Note B of the drug quantity table in U.S.S.G. § 2D1.1, the drug quantity is properly calculated and corresponds with the appropriate Base Offense Level.

This matter is presented to the Court for final resolution.

By the Defendant

No objections have been received from the defendant.

Respectfully Submitted,



U.S. Probation Officer

STATUTE	OFFENSE	AGGRAVATED FELONY?	CRIME INVOLVING MORAL TURPITUDE?	OTHER GROUNDS OF DEPORTABILITY/ INADMISSIBILITY?
42 U.S.C. § 408(a)(7)(B)	Using/Reporting/ Working with a Social Security number not assigned to you	Practically No. In Theory perhaps under a fraud or deceit ground when loss to the victim exceeds \$10,000 ¹ .	Probably: Omaha Immigration Court Judges have concluded this is a CIMT. ²	n/a
21 U.S.C. § 841(a)(1) & (b)(1)	Manufacture, distribution, or possession with intent to distribute	Yes, see INA §101(a)(43)(B), i.e. trafficking in a controlled substance.	Yes, see <i>Matter of Khourn</i> , 21 I & N Dec. 293 (BIA 1992).	Yes, under controlled substance ground. See INA §§ 212(a)(2)(A)(i)(II); 237(a)(2)(B)(i), (ii) ³ .
18 U.S.C. § 911	False Claim to U.S. Citizenship	No, has never been held to be an Agg Fel.	Unlikely. DHS policy in the 90's indicated not a CIMT. ⁴ The Omaha Court immigration Judges have not held this to be a CIMT. ⁵	Yes, under false claim to citizenship. See INA §§ 212(a)(6)(C)(ii); and 237(a)(3)(D) ⁶ .

¹ See INA §101(a)(43)(M).

² However, see *Beltran-Tirado v. INS*, 213 F.3d 1179 (9th Cir. 2000), use of a false social security number or number belonging to someone else to obtain employment is not a CIMT because the underlying purpose for which the SSN was used, was lawful.

³ For Deportable aliens only (I.e. residents), there is a one time personal use of 30 grams or less of marijuana exception. And there is also a drug abusers and addicts clause (ii), that could render one deportable not found in INA § 212 (Inadmissibility).

⁴ See S. Genco Opinion 92-39, Penalties for Misrepresentations on Form I-9. (April 10, 1991).

⁵ In addition, recent decisions from Ohio Immigration Court Judges, and DHS Counsel official position in El-Paso Texas agree that this is not a CIMT.

⁶ Note: *Deportability v. Inadmissibility* are two different concepts. E.g. a person having entered the U.S. with permission, or under inspection v. a person who entered the U.S. without inspection. I.e. "EWI".

8 U.S.C. § 1324(a)(1)(A)(iii)	Harboring, smuggling and transporting	Probably under 8 U.S.C. § 1101(a)(43)(N). ⁷ There is a statutory exception for 1 st offense for assisting, abetting, or aiding one's spouse, child or parent.	Unlikely. ⁸	Yes, Under smuggling for bringing in offense. See INA § 237(a)(1)(E). ⁹
18 U.S.C. § 1546(b)	Fraud and misuse of permits, visas, and other documents	Yes, where a sentence of at least one year is imposed. See 8 U.S.C. § (a)(43)(P). ¹⁰	Yes, if use , not possession, i.e. 18 U.S.C. 1546(a), which is not generally a CIMT) ¹¹	Yes, under falsification of documents offense. See INA § 237(a)(3)(B)(iii). ¹²

⁷ See INA § 101(a)(43)(N), and §274(a)(1)(A).

⁸ See *Matter of Tiwari*, 19 I&N Dec. 875 (BIA 1989).

⁹ Note: there is a family reunification exception.

¹⁰ See INA § 101(a)(43)(P).

¹¹ See *Matter of Serna*, 20 I&N Dec. 579 (1992), the offense only involves moral turpitude if the record of conviction reflects that the defendant used the document(s).

¹² An alien is deportable, not inadmissible, under INA § 237 for a conviction under either (a) or (b) of 18 U.S.C. § 1546.