

**SWORN AFFIDAVIT AND DECLARATION OF  
LORNE EUGENE OSBORN**

I, Lorne E. Osborn being duly deposed and sworn under the penalty of perjury, hereby states that the following statements are true and correct:

1. I am over the age of 18 years old and am competent to testify. On April 15, 2004, I was found guilty by a jury for manufacturing marijuana in violation of 21 U.S.C. §841(a)(1); §841(b)(1)(B)(vii), and 18 U.S.C. §2, criminal case 1:03-cr-00008. Such case was out of the Western District of Michigan, Grand Rapids Division.

2. On May 27, 2004, I was sentenced to 210 months in prison and four years of supervised release. I was also fined \$4,000.00 and \$100.00 assessment fee. My sentence was imposed by Honorable United States District Judge, David W. McKeague.

3. On the day of my sentencing on May 27, 2004, I told my attorney, Mr. Kenneth E. Marks to file a notice of appeal in my case. I was informed by my attorney that he would do so, and for me not to be concerned. Such attorney advised me he would prepare a brief in my behalf for the appellate court.

4. I was then transferred to the state of Michigan authorities to finish my state sentence of 38 months. On or about August 11, 2005, I was released from the state authorities and transferred back into federal custody to start my current federal sentence.

5. After several attempts without success to contact my

attorney, Mr. Kenneth E. Marks by telephone, on or about November 17, 2005, I wrote a letter to the United States district court, in the Western District of Michigan, Grand Rapids inquiring into the status of my appeal. (SEE EXHIBIT (A))

6. On or about November 30, 2005, the clerk of the district court wrote me back and mailed me a copy of the docket sheet. After reviewing the docket sheet it became apparent that my attorney never filed a notice of appeal in this case. By reviewing the docket sheet it also became apparent that the clerk of the court construed my letter as a notice of appeal.

7. I state that I have always wanted to appeal my conviction and sentence in this case. The reason my notice of appeal wasn't timely filed was based on my attorney's failure to follow my instructions. This failure was out of my control.

Respectfully Submitted,

*Mary Ellen Collins*  
NOTARY SERVICE  
Dated and Signed Before  
me on this 17th, day of  
December 2005.  
State of INDIANA  
County of Vigo  
Com. exp. 03-22-2008

*Lorne E Osborn*  
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Lorne Eugene Osborn  
Reg. No. #11323-040  
Federal Correctional Institution  
Terre Haute, Indiana 47808