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# Ex-FBI agent is sentenced to 25 years in drug-sale scheme

He sought lenience because of illness and depression. The judge noted the intricacy of the marketing plan.

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Kenneth R. Withers, the former FBI agent who admitted stealing almost 100 pounds of high-quality heroin from the bureau's evidence room and selling some of it by mail, was sentenced yesterday to 25 years in prison.

Withers and his attorney Joseph M. Miller, urged U.S. District Judge Clarence C. Newcomer to be lenient. They argued that Withers had organized the bizarre scheme — stolen drugs sold through the mail at bargain-basement prices, no questions asked and no advance payment required — while in a severe mental depression after learning he had Hodgkin's disease, a cancer of the lymphatic system.

Withers, 33, described a period in early 1993, when he was undergoing radiation, chemotherapy and surgery, and when he stole the heroin and 11 pounds of cocaine valued at \$180 million on the street, as "the most difficult, terrifying time of my life."

"I was going into a black hole of depression into which no amount of light seemed to penetrate," Withers told Newcomer.

But the judge said he could not reconcile Withers' claims of mental disability with the intricate scheme the agent had devised to market the drugs he had taken from the FBI.

"There are a lot of people out there, some of whom are dying today as I speak," Newcomer told Withers. "But that's no justification, as tragic as that is, for violating the law."

Assistant U.S. Attorney Ronald H. Levine asked Newcomer for a long prison term and said Withers had stolen the drugs "because he wanted the money, and that's the long and short of it." Levine noted that Withers had spent some of the \$77,000 he received from drug sales on a mistress in Virginia.

Levine called the scheme "the most far-reaching breach of trust within the FBI family and the larger law enforcement community that one could imagine."

He said that in addition to "pouring three kilograms of high-quality heroin and five kilograms of cocaine into the city streets of Philadelphia and New York," Withers' mail solicitations had tipped off seven drug dealers that they were under investigation.

Levine said the courts also must demonstrate that there is "equal justice under the law. What is a struggling inner-city parent to think as they struggle to keep their child away from drugs and guns and violence?"

Withers' prison sentence fell at the higher end of the 262 to 327-month range mandated under the federal sentencing guidelines. Although the 25-year term is significant, he could have faced life had he gone to trial and been convicted of all 12 counts on which he was indicted.

Because the federal guidelines abolished parole, Withers can expect to serve about 85 percent of his 25 years if he earns time off for good behavior.

Newcomer also fined Withers \$2,500 and ordered that he begin paying the fine while he is working in prison.

Withers, who had lived in Medford in South Jersey, pleaded guilty in October to theft of government property and possession and distribution of heroin and cocaine.

He has been held in isolation since his arrest June 3 at the FBI's headquarters in Center City. He was tried the same day.

The information that led to Withers' arrest came last March and April from three drug dealers who had received a strange letter in the mail and, astounded and a little suspicious they were being set up, decided to contact authorities.

The letters offered unlimited amounts of high-quality "Middle Eastern brown" heroin for \$75,000 per kilogram — half the usual street price — and no money down. A sample was included. The letters, postmarked in South Jersey and signed "Salvatore," instructed the recipients to dial a telephone pager number to order the heroin, which would be mailed to them.

FBI officials immediately became suspicious. Salvatore's gambit was very similar to one used by the bureau on Oct. 15, 1992, when agents seized about 46 kilograms of Pakistani heroin at Philadelphia International Airport. And Salvatore's heroin samples seemed very much like the so-called Malik heroin seized at the airport.

In April, the FBI ordered the retesting of the Malik cache, which had been sitting in the Evidence Control Room since it was seized. The results showed that 45 of the 46 one-kilogram packages had been emptied and refilled with bicarbonate of soda.

Fingerprints and other clues pointed to Withers as the enigmatic Salvatore. Withers had been assigned to a room adjacent to the Evidence Control Room when he fell ill in early 1993.

Withers confessed when he was confronted by FBI superiors. After his arrest, the FBI found 29 kilograms of heroin and \$66,000 in cash from the sale of the illegal drugs in the basement of Withers' grandparents' home near Louisville, Ky.

Agents also learned that Withers had stolen about five kilograms of cocaine as well as 678 pounds of FBI ammunition.

## Ken Withers sentenced.

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