

**FILED**

**UNITED STATES DISTRICT COURT**

**MAR 23 2012**

District of Columbia

Clerk, U.S. District & Bankruptcy Courts for the District of Columbia

UNITED STATES OF AMERICA

v.

STEWART DAVID NOZETTE

**JUDGMENT IN A CRIMINAL CASE**

Case Number: 09-276 (PLF)

USM Number: 25004-016

John C. Kiyonaga and Robert L. Tucker

Defendant's Attorney

**THE DEFENDANT:**

pleaded guilty to count(s) 3ss of the Second Superseding Indictment

pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.

was found guilty on count(s) \_\_\_\_\_ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 794(a)	Attempted Espionage	10/1/2009	3ss

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) \_\_\_\_\_

Count(s) 1,2,1s,2s,3s,1ss,2ss, and 4ss  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

March 21, 2012

Date of Imposition of Judgment



Signature of Judge

Paul L. Friedman

U. S. District Judge

Name and Title of Judge

Date March 23, 2012

Date

(W)

DEFENDANT: STEWART DAVID NOZETTE  
CASE NUMBER: 09-276 (PLF)

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

One hundred fifty-six (156) months to run concurrently with the sentence imposed for Counts 1 and 2 in case 1:08-cr-371 (PLF). The defendant shall receive credit for time already served since October 19, 2009.

The court makes the following recommendations to the Bureau of Prisons:

Incarceration as close to the Washington, DC metropolitan area as possible in the least restrictive conditions of confinement consistent with any administrative measures imposed by the Bureau of Prisons.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

- at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_ .
- as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- before 2 p.m. on \_\_\_\_\_ .
- as notified by the United States Marshal.
- as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

a \_\_\_\_\_ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: STEWART DAVID NOZETTE  
CASE NUMBER: 09-276 (PLF)

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

Thirty-six (36) months to run concurrently with the term of supervised release imposed for Counts 1 and 2 in case 1:08-cr-371 (PLF).

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable)*
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable)*
- The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: STEWART DAVID NOZETTE  
CASE NUMBER: 09-276 (PLF)

### **ADDITIONAL SUPERVISED RELEASE TERMS**

The defendant shall pay a \$100.00 special assessment which is immediately payable to the Clerk of the Court for the U.S. District Court, District of Columbia. Within 30 days of any change of address, the defendant shall notify the Clerk of the Court of the change until such time as the financial obligation is paid in full. The defendant shall make payments toward the special assessment through his participation in the Bureau of Prisons' Inmate Financial Responsibility Program.

The Court finds that the defendant does not have the ability to pay a fine and, therefore, waives imposition of a fine in this case.

Within 72 hours of release from custody, the defendant shall report in person to the probation office in the district to which he is released. While on supervision, the defendant shall not possess a firearm or other dangerous weapon, shall not use or possess an illegal controlled substance, and shall not commit another federal, state, or local crime. The defendant shall also abide by the general conditions of supervision adopted by the U.S. Probation Office, as well as the following special conditions:

Pursuant to 42 USC § 14135a, for all felony offenses, the defendant shall submit to the collection and use of DNA identification information while incarcerated in the Bureau of Prisons, or at the direction of the U.S. Probation Office.

The defendant is prohibited from incurring new credit charges, opening additional lines of credit, or negotiating or consummating any financial contracts without the approval of the Probation Office.

The defendant shall provide the Probation Office with his income tax returns, authorization for release of credit information, and any other business or financial information in which he has a control or interest until all restitution is satisfied.

The defendant is prohibited from any foreign travel without the permission of the Court and the Probation Office.

For the period of incarceration, as well as the period of supervised release, the defendant is to stay away from and have no contact with the two lead case agents and their families.

Pursuant to Rule 32.2(a) of the Fed. Rules of Crim Proc., the defendant is ordered to forfeit the following property which was identified as related to the offense of conviction: \$9,600.00. [The Court signed a Consent Order of Forfeiture on September 7, 2011 which is attached to this Judgment.]

DEFENDANT: STEWART DAVID NOZETTE  
 CASE NUMBER: 09-276 (PLF)

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$ 0.00	\$ 0.00

The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>

<b>TOTALS</b>	\$ _____	0.00	\$ _____	0.00
---------------	----------	------	----------	------

- Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- the interest requirement is waived for the  fine  restitution.
  - the interest requirement for the  fine  restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: STEWART DAVID NOZETTE  
CASE NUMBER: 09-276 (PLF)

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A  Lump sum payment of \$ \_\_\_\_\_ due immediately, balance due
- not later than \_\_\_\_\_, or
- in accordance  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:  
See pages 4 and 5 of this Judgment.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:  
Pursuant to Rule 32.2(a) of the Fed. Rules of Crim Proc., the defendant is ordered to forfeit the following property which was identified as related to the offense of conviction: \$9,600.00. [The Court signed a Consent Order of Forfeiture on September 7, 2011 which is attached to this Judgment.]

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

SEP - 7 2011

Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

UNITED STATES OF AMERICA :

v. :

STEWART DAVID NOZETTE, :

Defendant. :

CRIMINAL NO. 09-276 (PLF)

CONSENT ORDER OF FORFEITURE

*WHEREAS*, a written plea agreement was filed with this Court and signed by defendant STEWART DAVID NOZETTE, (“NOZETTE”), and his counsel, in which defendant NOZETTE agreed to plead guilty to Count Three of a Criminal Indictment, which charged the offense of **Attempted Espionage**, in violation of Title 18, United States Code, Section 794(a);

*WHEREAS*, the Criminal Indictment also alleged the forfeiture of certain property, that is, a money judgment in the amount of nine thousand, six hundred dollars, and no cents (\$9,600.00), which property is subject to forfeiture pursuant to Title 18, United States Code, Section 794(d)(1), as any property constituting or derived from, any and all proceeds obtained, directly or indirectly, as the result of such offense;

*WHEREAS*, pursuant to Fed.R.Crim.P. 32.2(b)(2), this Court determines, based on the evidence set forth during the defendant’s plea hearing, that entry of a money judgment in favor of the United States for the sum of nine thousand, six hundred dollars, and no cents (\$9,600.00), which represents a sum of money constituting, or derived from, proceeds obtained, directly or indirectly, as the result of **Attempted Espionage**, in violation of Title 18, United States Code,

Section 794(a), is appropriate insofar as this property is subject to forfeiture pursuant to Title 18, United States Code, Section 794(d)(1), and that the Government has established the requisite connection between that forfeiture and the violation of Title 18, United States Code, Section 794(a);

***NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:***

1. That the following property is declared forfeited to the United States, pursuant to Title 18, United States Code, Section 794(d)(1):

**MONEY JUDGMENT:**

(i) judgment against defendant in favor of the United States of America for a sum of money in the amount of nine thousand, six hundred dollars, and no cents (\$9,600.00), which is equal to the amount of money constituting, or derived from, proceeds obtained, directly or indirectly, as a result of the offense alleged in Count Three of the Indictment, **Attempted Espionage**, in violation of Title 18, United States Code, Section 794(a).

2. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

3. That pursuant to Rule 32.2(b)(4), this Consent Order of Forfeiture shall become final as to the defendant **STEWART DAVID NOZETTE** at the time of sentencing, and shall be made part of the sentence and included in the judgment.



4. The Clerk of the Court shall forward four (4) certified copies of this Order to Assistant United States Attorney Diane Lucas, Asset Forfeiture and Money Laundering Section, United States Attorney's Office, 555 Fourth Street, N.W., Washington, D.C. 20530.

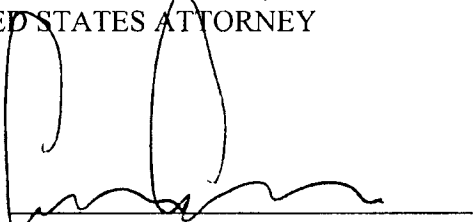
Dated this 7<sup>th</sup> day of September, 2011.

  
PAUL L. FRIEDMAN  
UNITED STATES DISTRICT JUDGE

WE ASK FOR THIS:

/s/ Ronald C. Machen Jr.  
RONALD C. MACHEN JR., D.C. Bar No. 447-889  
UNITED STATES ATTORNEY

By:

  
ANTHONY ASUNCION  
Assistant United States Attorney  
D.C. Bar No. 420822  
U.S. Attorney's Office  
National Security Section  
555 Fourth Street, N.W. (11<sup>th</sup> Floor)  
Washington, D.C. 20530  
Tel: 202-252-7786  
Anthony.Asuncion@usdoj.gov



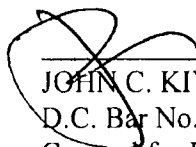
DEBORAH A. CURTIS  
CA Bar No. 172208  
Trial Attorney/Counterespionage Section  
Department of Justice  
1400 New York Avenue, N.W.  
Washington, D.C. 20005  
Tel: 202-233-2113  
Deborah.Curtis@usdoj.gov



HEATHER M. SCHMIDT  
D.C. Bar No. 496325  
Trial Attorney/Counterespionage Section  
Department of Justice  
1400 New York Ave., N.W. (9<sup>th</sup> Floor)  
Washington, D.C. 20005  
Tel: 202-233-2132  
Heather.Schmidt@usdoj.gov



STEWART DAVID NOZETTE  
Defendant



JOHN C. KIYONAGA, ESQ.  
D.C. Bar No. 424858  
Counsel for Defendant  
526 King Street  
Suite 213  
Alexandria, VA 22314  
Jkiyonaga@earthlink.net



ROBERT L. TUCKER, ESQ.  
Counsel for Defendant  
3812 N. Pershing Dr.  
Arlington, VA 22203  
RobertTuckerLaw@gmail.com