



Department of Justice

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**LEADER OF EAST PALO ALTO-BASED CRACK COCAINE DRUG TRAFFICKING ORGANIZATION
SENTENCED TO MORE THAN NINETEEN YEARS IN PRISON**

OAKLAND, Calif. – Desean Nathaniel Gardner was sentenced yesterday to 235 months in prison for his role as the leader of a conspiracy to manufacture and distribute crack cocaine throughout the San Francisco Bay Area and surrounding communities, United States Attorney Melinda Haag announced.

According to his plea agreement, Gardner, 33, of East Palo Alto, Calif., conspired to manufacture, distribute and possess with intent to distribute more than five kilograms of cocaine base in the form of crack cocaine, a Schedule II controlled substance, from about March 18, 2008, to about March 7, 2009.

According to the plea agreement, as part of the conspiracy, and in furtherance of it, Gardner purchased kilogram quantities of powder cocaine from others and then converted or “cooked” those quantities of cocaine into crack cocaine for sale. In many instances Gardner provided or sold this crack cocaine to other members of the conspiracy to re-sell. Gardner also provided some of the crack cocaine he manufactured to two co-conspirators, a man and his wife, to distribute to individuals from their residence in East Palo Alto. In fact, from Jan. 7, 2009, through March 7, 2009, Gardner provided these two co-conspirators, or instructed them to distribute, or possess with intent to distribute, a total of at least 892 grams of crack cocaine. Gardner would regularly collect the drug proceeds from those co-conspirators and re-supply them with more crack cocaine to distribute.

The plea agreement also states that Gardner sold and provided crack cocaine to other members of the conspiracy in ounce, half-ounce, quarter-ounce, and eighth-ounce quantities. Gardner

typically charged \$600 for an ounce, \$300 for a half-ounce, \$150 for a quarter-ounce, and \$75 for an eighth-ounce. Frequently, other members of the conspiracy would contact Gardner on his mobile telephones to arrange to purchase crack cocaine. During these conversations Gardner and his co-conspirators used intentionally vague and coded language to discuss narcotics trafficking activities in order to avoid detection by law enforcement.

According to the plea agreement, in some instances Gardner would sell crack cocaine to a co-conspirator for less than the usual price with the understanding that the co-conspirator would pay him back at the next purchase with money the co-conspirator received from selling the crack cocaine that Gardner had previously given to him or her. This practice is called "fronting." In addition to setting the price of the crack cocaine and determining whether to front a co-conspirator with crack cocaine, Gardner also chose the meeting locations where he distributed crack cocaine to other co-conspirators. Typically, Gardner used a Mitsubishi Galant, equipped with a hidden compartment to transport cocaine, crack cocaine and drug proceeds. This vehicle was registered to a co-conspirator but Gardner was the purchaser and exclusive user of the vehicle. Gardner used a vehicle registered in a co-conspirator's name in order to avoid detection and apprehension by law enforcement.

According to the plea agreement, from Jan. 7, 2009, through March 7, 2009, Gardner provided at least twenty-five co-conspirators with at least 3.51 kilograms of crack cocaine for re-sale. During the entire length of the conspiracy Gardner distributed more than five kilograms of crack cocaine. Gardner acted as an organizer and leader of extensive criminal activity. Specifically, Gardner set the prices of various quantities of crack cocaine sold by him and other members of the conspiracy. Gardner decided where drug transactions would occur and established a location from which crack cocaine would be distributed. Gardner gave instructions to at least three other members of the conspiracy as to where to meet others for the purpose of selling crack cocaine, how much crack cocaine to distribute, and how much money to collect as payment.

The plea agreement also states that, prior to participating in the offense conduct described above, Gardner had been convicted of the following felony narcotics trafficking offenses: (1) possession of marijuana for sale, a felony, in violation of California Health and Safety Code Section 11359, on or about May 19, 1998, in San Mateo County Superior Court, for which Gardner was sentenced to 16 months' imprisonment; and (2) possession/purchase cocaine base for sale, a felony, in violation of California Health & Safety Code Section 11351.5, and possession of marijuana for sale, a felony, in violation of California Health and Safety Code Section 11359, on or about Nov. 2, 2001, in Santa Clara County Superior Court, for which Gardner was sentenced to three years' in prison. Accordingly, for purposes of the United States Sentencing Guidelines, Gardner is a career offender. Finally, Gardner participated in the conspiracy and committed the conduct described above while he was on probation for another offense.

On April 8, 2009, a federal grand jury returned a second superseding indictment charging Gardner and thirty-four other defendants with conspiracy to manufacture, distribute, and possess with intent to distribute crack cocaine and marijuana in violation of 21 U.S.C. §§ 846, 841(b)(1)(A)(iii), (b)(1)(D). Gardner was also charged with six counts of distributing of crack cocaine in violation of 21 U.S.C. § 841(a)(1). Those additional counts were dismissed at the sentencing hearing.

Gardner, who has been in custody since his March 2009 arrest, will begin serving his 235-month sentence immediately. Gardner was also sentenced to a five-year term of supervised release during which he may be searched by any federal, state, or local law enforcement officer

with or without cause, ordered to pay a \$20,000 fine and a \$100 special assessment and ordered to forfeit a Mitsubishi Galant and two mobile telephones.

Assistant United States Attorneys Garth Hire, of the United States Attorney's Office's Organized Crime Strike Force, and Assistant United States Attorney Christina McCall, are prosecuting the case with the assistance of Paralegals Patty Lau and Noble Hughes and Legal Technicians Kathleen Turner, Vanessa Vargas, and Janice Pagsanjan. The conviction and sentence were the result of an investigation by the Federal Bureau of Investigation, the Menlo Park Police Department, the East Palo Alto Police Department, the Internal Revenue Service, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and the San Mateo County Sheriff's Department. The sentence was handed down by United States District Court Judge Claudia Wilken.

Further Information:

Case #: CR 09-0203 CW

A copy of this press release may be found on the U.S. Attorney's Office's website at www.usdoj.gov/usao/can.

Electronic court filings and further procedural and docket information are available at <https://ecf.cand.uscourts.gov/cgi-bin/login.pl>.

Judges' calendars with schedules for upcoming court hearings can be viewed on the court's website at www.cand.uscourts.gov.

All press inquiries to the U.S. Attorney's Office should be directed to Jack Gillund at (415) 436-6599 or by e-mail at Jack.Gillund@usdoj.gov.

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