

1 James A. McDevitt
2 United States Attorney
3 Eastern District of Washington
4 Stephanie Whitaker
5 Assistant United States Attorney
6 Post Office Box 1494
7 Spokane, WA 99210-1494
8 Telephone: (509) 353-2767

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MAR 04 2008

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON

8 **CR-08-0026-FVS**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 GYPSY LAWSON,
13 FRAN OGREN, and
14 JAMES EDWARD PRATT,

15 Defendants.

INDICTMENT

Vio: 18 U.S.C. §§ 545 and 2

Smuggling Goods into the
United States (Counts 1
and 2)

16 U.S.C. § 3372(a)(1)

Lacey Act Violation,
Possession and
Transportation of
Prohibited Wildlife
(Count 3)

17
18
19 **Preamble**

20 1. The United States, Thailand, and approximately 170 other countries are
21 signatories to a multilateral treaty called the Convention on International Trade in
22 Endangered Species of Wild Fauna and Flora, 27 U.S.T. 1087, T.I.A.S. 8249
23 (commonly referred to as "the CITES treaty" or "the Convention"). The CITES treaty
24 provides a mechanism for regulating international trade in species whose survival is
25 considered threatened by trade. By agreement of the parties, such species are listed on
26 "appendices," depending on the level of protection needed for the species.
27 International trade in species listed on these appendices (and their body parts or
28

INDICTMENT - 1

1 products made therefrom) is monitored and regulated by permits and quotas. The
2 permit restrictions apply to live and dead specimens, as well as the skins, parts and
3 products made in whole or in part from a listed species.

4 2. Wildlife species in danger of extinction and which are, or may be, affected by
5 trade (tigers, pandas, elephants and all species of sea turtles, for example) are listed on
6 Appendix I of CITES. CITES allows very limited trade in Appendix I species for
7 scientific and research purposes, and only if the specimen is lawfully acquired and a
8 valid "foreign export permit" issued by the specimen's country of origin (or a valid
9 "foreign re-export certificate" issued by the country of re-export), as well as a valid
10 "import permit" from the destination country, are obtained prior to shipping any such
11 wildlife from one country to another. International trade in Appendix I species for
12 "primarily commercial purposes" is prohibited.

13 3. Listed on Appendix II of CITES are species not necessarily threatened with
14 extinction, but in which trade must be controlled in order to avoid utilization
15 incompatible with their survival. International trade in these species (or skins or
16 products made from them) for commercial purposes is allowed, but only if a valid
17 "foreign export permit" issued by the specimen's country of origin (or a valid "foreign
18 re-export certificate" issued by the country of re-export) is obtained prior to the
19 shipment. The Rhesus Macaque (*macaca mullata*) described below is subject to the
20 Appendix II permit requirements.

21 4. The CITES treaty is implemented in the United States by the Endangered
22 Species Act of 1973 (the "ESA"), which directs the U.S. Fish and Wildlife Service
23 ("USFWS") to administer the treaty. 16 U.S.C. 1537a, 1540(f). The ESA makes it
24 unlawful to knowingly "trade in any specimen contrary to the provisions of [CITES], or
25 to possess any specimen traded contrary to the provisions of [CITES]." 16 U.S.C. §§
26 1538(c)(1), 1540(b)(1). "Trade," in this context, includes importation into the United
27 States. The USFWS has promulgated extensive regulations incorporating the specific
28

INDICTMENT - 2

1 permit requirements and provisions of CITES and listing the species contained on the
2 CITES appendices. 50 C.F.R. Part 23.

3 5. The Rhesus Macaque (*mucaca mullata*) has been listed under CITES
4 Appendix II since April 4, 1977. 50 CFR Part 23.

5 6. In addition to the requirements of CITES and the ESA, federal law generally
6 requires that all wildlife, including rhesus macaques, or parts thereof, must be declared
7 to the United States Customs Service at the port of first arrival in the United States. 19
8 C.F.R. § 148.11. When importing any wildlife, importers or their agents must file with
9 the USFWS a completed Declaration for Importation or Exportation of Fish and
10 Wildlife. 50 C.F.R. § 14.61. A USFWS or United States Customs Service officer must
11 clear (or refuse) wildlife being imported into the United States, and the importer or his
12 agent must make available to the officer the wildlife being imported, as well as all
13 required permits, licenses or other documents. 50 C.F.R. § 14.52.

14 COUNT ONE

15 On or about November 28, 2007, within the Eastern District of Washington,
16 GYPSY LAWSON and FRAN OGREN, Defendants herein, did fraudulently and
17 knowingly import and bring into the United States merchandise, to wit: a Rhesus
18 Macaque, contrary to law in that said merchandise was imported in violation of the
19 Endangered Species Act, and was not declared to any official of the United States
20 government upon its entry into the United States, in violation of Title 16, United States
21 Code, Sections 1538(c)(1), 1540(b)(1) and 3372(a)(1), and Title 19 Code of Federal
22 Regulations, Section 148.11, Title 50 Code of Federal Regulations, Sections 14.61 and
23 14.52 and Section 23, and did knowingly receive, conceal and in any manner facilitated
24 the transportation, and concealment of such merchandise after importation, knowing
25
26
27
28

1 the same to have been imported and brought into the United States contrary to law, all
2 in violation of Title 18, United States Code, Sections 545 and 2.

3 COUNT TWO

4 On or about November 28, 2007 until on or about January 11, 2008, within the
5 Eastern District of Washington, JAMES EDWARD PRATT, Defendant herein, did
6 receive, conceal and in any manner facilitated the transportation and concealment of
7 merchandise, to wit: a Rhesus Macaque, contrary to law in that said merchandise was
8 imported into the United States contrary to law, knowing that said merchandise was
9 imported in violation of the Endangered Species Act, and was not declared to any
10 official of the United States government upon its entry into the United States, in
11 violation of Title 16, United States Code, Sections 1538(c)(1), 1540(b)(1) and
12 3372(a)(1), and Title 19 Code of Federal Regulations, Section 148.11, Title 50 Code of
13 Federal Regulations, Sections 14.61 and 14.52 and Section 23, all in violation of Title
14 18, United States Code, Sections 545 and 2.

15 COUNT THREE

16 On or about November 28, 2007 until on or about January 11, 2008, within the
17 Eastern District of Washington, GYPSY LAWSON, FRAN OGREN and JAMES
18 EDWARD PRATT, Defendants herein, did knowingly import, receive and transport
19 wildlife, to wit: a Rhesus Macaque, contrary to law in that said wildlife was taken,
20 possessed, and transported in violation of the Endangered Species Act, and was not
21 declared to any official of the United States government upon its entry into the United
22 States at California, in violation of Title 16 United States Code, Sections 1538(c)(1),
23 1540(b)(1) and 3372(a)(1), Title 19 Code of Federal Regulations, Section 148.11,

1 and Title 50, Code of Federal Regulations, Sections 14.61 and 14.52 and Section 23, all
2 in violation of Title 16, United States Code, Section 3372(a)(1) and Title 18, United
3 States Code, Section 2.

4 Dated this 4 of March, 2008.

5 A TRUE BILL

6
7
8 *Thomas O'Neil, FAUSA*
9 *for* James A. McDevitt
10 United States Attorney

11 *Stephanie Whitaker*
12 Stephanie Whitaker
13 Assistant United States Attorney