

**District of Columbia
Court of Appeals**

No. 97-CF-421
GREGORY V. WILLIAMS,

Appellant,

F10817-95

No. 97-CF-604
HERBERT SMALLS, JR.,

Appellant,

F10818-95

v.

UNITED STATES,

Appellee.

BEFORE: Terry and Ruiz, Associate Judges; Steadman, Senior Judge.

O R D E R
(Filed November 8, 2005)

It is ORDERED, *sua sponte*, that this court's opinion filed October 13, 2005, is hereby amended as follows:

On page 25, delete the last sentence and cite to *Harris v. United States*, and replace with:

As noted, in opposing the motion to sever, the government did not assert that delay would prejudice its ability to present material evidence.

On page 27, footnote 19, add a new sentence at the end of the footnote:

And if the police officers who testified in the joint trial were no longer available for Smalls's separate new trial, their sworn cross-examined testimony from the previous joint trial could be introduced by the government. See *Harris v. United States*, 614 A.2d 1277, 1284 (D.C. 1992) (citing, *inter alia*, Federal Rule of Evidence 804 (b)(1), *overruled on other grounds by Carter*, 684 A.2d at 334).

PER CURIAM