

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CR. NO. 2:10cr186-MHT</b>
	)	
<b>JAMES E. PREUITT,</b>	)	
	)	
<b>Defendant.</b>	)	

**DEFENDANT JAMES E. PREUITT’S FIRST MOTION TO DISMISS,  
REGARDING CHARGES PREMISED ON 18 U.S.C. § 666**

Defendant James E. Preuitt respectfully moves to dismiss Counts 1 and 9. These are the charges under 18 U.S.C. §666(a)(2), along with the charge of conspiracy to violate §666. All of these charges should be dismissed because the Indictment alleges only conduct that is outside the scope of §666, when that statute is properly construed and kept within constitutional bounds. These Counts therefore “fail[] ... to state an offense,” Fed. R. Crim. P. 12(b)(3)(B), and should be dismissed. This motion is supported by the accompanying brief.

RESPECTFULLY SUBMITTED this the 4<sup>th</sup> day of February, 2011.

**/s/ Ronald W. Wise**  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 4, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all Counsel of record.

**/s/ Ronald. Wise**  
OF COUNSEL