

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

UNITED STATES OF AMERICA)
)
v.) **CR. NO. 2:10cr186-MHT**
)
QUINTON T. ROSS, JR.)

**QUINTON T. ROSS, JR.’S MOTION TO STRIKE
AND TO PRECLUDE GOVERNMENT FROM ARGUING THAT
18 U.S.C. § 666 DOES NOT REQUIRE A QUID PRO QUO**

Quinton T. Ross, Jr., respectfully moves this Court to strike from the United States’ Opposition to Defendant Quinton Ross’ Motion to Dismiss Federal Program Bribery Charges and Conspiracy to Commit Federal Program Bribery (doc. no. 613, filed Feb. 14, 2011) the argument that the Eleventh Circuit does not require a *quid pro quo* for a conviction under 18 U.S.C. §666, and to preclude the Government from making such an argument to the jury or otherwise before the Court in this action.¹ This motion is relevant to Senator Ross’ motion to dismiss the federal program bribery charges against him (doc. no. 463, filed Feb. 4, 2011), because Senator Ross specifically argued in his supporting brief that an express *quid pro quo* requirement applies to not only the Hobbs Act charges against him, but also the federal programs bribery and conspiracy to commit federal programs bribery charges. Doc. no. 467 (filed Feb. 4, 2011), at, *e.g.*, 27-29 and n. 10.

Senator Ross moves this Court to strike and to preclude the Government from arguing that the Eleventh Circuit does not require a *quid pro quo* for a conviction under §666 because the Government successfully argued the opposite position before the

¹ The Government asserts that argument in its Opposition in the third full paragraph beginning on page 22 and continuing over to page 23, and refers to it again in the last sentence of the third full paragraph on page 25. Doc. no. 613, at 22-23, 25.

United States Supreme Court in *United States v. McNair*, no. 10-533. Thus, to prevent the Government from being able to change positions at its convenience and to protect the courts from the appearance of being “hoodwinked,” this Court should bar the Government from taking a position in this action that is in direct contradiction to the position the Government took on the same issue before the Supreme Court.

In support of this motion, Senator Ross adopts, incorporates, and relies on the arguments (specifically including that based on judicial estoppel) made by Ronald Gilley in *his* motion to strike and to preclude the Government from arguing that §666 does not require a *quid pro quo* (doc. no. 956, filed April 20, 2011), as well as the supporting exhibits submitted with that motion.

WHEREFORE, PREMISES CONSIDERED, Quinton Ross respectfully requests that the Court grant this motion; and enter an order 1) striking from the Government’s Opposition (doc. no 613) the argument that the Eleventh Circuit does not require a *quid pro quo* for a conviction under 18 U.S.C. §666, and 2) barring the Government from making such an argument to the jury or otherwise in this action.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April, 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 the following:

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