

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:10-cr-186-MHT
)	
THOMAS E. COKER,)	
)	
Defendant.)	

**DEFENDANT TOM COKER'S FIRST MOTION TO DISMISS,
REGARDING CHARGES PREMISED ON 18 U.S.C. § 666**

Defendant Tom Coker respectfully moves to dismiss Counts 1, 8, and 10. 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,

/s/ David McKnight
David McKnight
BAXLEY, DILLARD, DAUPHIN
MCKNIGHT & JAMES
2008 Third Avenue South
Birmingham, Alabama 35233
Telephone: 205.271.1100
Fax: 205.271.1108
Email: dmcknight@baxleydillard.com

CERTIFICATE OF SERVICE

I hereby certify that on February 2, 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/ David McKnight
Of Counsel