

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 V.) CR NO. 2:10cr186-MHT
)
 LARRY P. MEANS,)
)
 Defendant.)

DEFENDANT LARRY P. MEANS' OBJECTIONS
TO THE COURT'S PROPOSED JURY INSTRUCTIONS

Defendant Larry P. Means, by and through counsel, hereby objects to the Court's proposed jury instructions and requests the Court to amend the instructions as follows:

1. P. 1, last line, after "specific facts" add "and requisite intent." Intent is a critical element of each offense. The instructions as it now stands would cause a jury to believe that it was not necessary find the requisite intent.
2. P. 2, line 4 after " presented here during the trial, add " as well as you may consider the lack of evidence which you may find as to any charge." Eight of the nine defendants put on no evidence. The "lack" of evidence is an essential part of Defendant Means defense.
3. P. 5, line 6 after "anything the lawyers say is not evidence in the case" add " When a lawyer asks a question on cross-examination and the witness responds 'yes' or otherwise agrees with the statement in the question, that is evidence in the case." The Defendants evidence to the extent it was presented came in on cross-examination. It

is important to Defendant Means defense that it is clear to the jury regarding this issue.

4. P. 8, line 9 at the end of the paragraph after “ testimony or other evidence?” add “ Was the witness testifying about what she recalled a person actually said, or was she testifying as to what he/she assumed they meant.” The Court several times during the trial sustained objections when a witness testified they “assumed” something.
5. P. 12, count one instead of “plan” use the word “agreement”. See, U.S. v. Chandler, 388 F.3d 796, 806 (11th Cir. 2009).
6. P. 18, Objection to lines 3-6 which include the word “representative” an “agent” of the State of Alabama. This is an element which must be proved beyond a reasonable doubt whether a State Senator in Alabama is an “agent” of the State.
7. P.19, in the last full paragraph beginning “However, when there is” delete “a” and insert “an explicit” quid pro quo. This should be used in other paragraphs as well when the term quid pro quo is used. The Court has said this is the standard where campaign funds are involved.
8. P. 20 and 21, Objection to language which permits an “explicit” promise or solicitation to be inferred. It should provide that the promise or solicitation must not only be explicit, but also express.
9. P. 27, at the end of the sentence beginning “First; the defendant” add “knowingly” and at the end of the sentence add “i.e., he solicited and, directly and through others pressured that person.” This is the language from the indictment.

10. P. 27 at the beginning of the sentence beginning, "Third" insert, "The defendant knowingly attempted to obstruct, delay, and affect commerce and the movement of articles in commerce by extortion." This is the language from the indictment.
11. P. 27 in the "Fourth" subparagraph add "explicit" before "quid pro quo."
12. P. 28, Objection to the failure of the instruction to include the requirement that the Defendant "did knowingly" attempt to obstruct ..." as set forth in the Indictment.
13. P.29, line 2 before " quid pro quo" insert "an explicit."
14. P. 35, line 13 before "quid pro quo" insert "an explicit."
15. Defendant objects to the definition of "corruptly" as used in the instructions. It is circular and confusing, and denies the defendant due process of law. For the purpose of this case where the Court has held that an explicit quid pro quo must be proven the term "corruptly" should be defined in those terms.
16. Defendant Means further adopts any objections, proposed changes, proposed jury instructions and authority cited by any other defendants.
17. Defendant contends that the preceding objections with proposed changes are correct statements of the law and not included in the Court's charge.

Respectfully submitted this the 4th day of August, 2011.

/s/ William N. Clark
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following and **all counsel of record** electronically on this the 4th day of August, 2011.

Justin V. Shur

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/s/ William N. Clark

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