

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

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

MOTION FOR JUDGMENT OF ACQUITTAL
ON BEHALF OF JAMES E. PREUITT AFTER DISCHARGE OF THE JURY

COMES NOW the defendant, James E. Preuitt, and asks this Court to enter a Judgment of Acquittal as to Counts 1, 9 and 38 on the grounds that the evidence was insufficient to sustain a conviction.

I. Count 9 – 18 U.S.C. §§ 666(a)(1)(B)(2)

There is absolutely no evidence that James E. Preuitt was “an agent of the State of Alabama” or that he corruptly solicited, demanded, accepted or agreed to accept something of value, intending to be influenced and rewarded in connection with an upcoming vote on gambling legislation. Specifically, there is absolutely no evidence that there was any agreement with anyone that James E. Preuitt would accept “at least 2 million dollars in campaign support and the services of prominent country music stars for campaign purposes, among other things of value, from Gilley, Massey, McGregor, Coker, Walker or lobbyist A, intending to be influenced and rewarded in connection with an upcoming vote on gambling legislation”. (see Count 9 of the Indictment). In fact, Defendant Gilley testified that James E. Preuitt told him that he did not want any money

for his campaign. Jennifer Pouncey testified that she never had a commitment or acceptance of any offer of 2 million dollars from James E. Preuitt. Jarrod Massey testified that he only had a conversation with James E. Preuitt wherein they were talking “politics” and that James E. Preuitt was told by Mr. Massey that his campaign could cost anywhere between half a million dollars and one million dollars. Mr. Massey testified that this was just talk in general and nothing specific was offered to James E. Preuitt in exchange for his vote in this conversation with him.

II. Count 38

According to Agent Glaser, James E. Preuitt told him that he never accepted anything of value in exchange for his vote and that he was never offered anything in exchange for his vote. There is no testimony that he was offered anything in exchange for his vote or that he accepted anything in exchange for his vote. Further, there is absolutely no evidence that he was aware of private individuals, lobbyists or legislators being involved in the offer or acceptance of things of value in exchange of votes to pass gambling legislation. Count 38 of the Indictment is very specific as to the alleged false statement that was made by Mr. Preuitt. The Government’s evidence was insufficient for this case to go to the jury on this count as well.

III. Conspiracy. Count 1 of the Indictment (Conspiracy), 18 U.S.C. §371

The Defendant James E. Preuitt hereby adopts and incorporates by reference all previous arguments made by him in connection with this Count as far as Motions Judgments of Acquittal and hereby adopts and incorporates by reference the arguments

and authorities set out in the Motions for Judgment of Acquittal which have already been filed on behalf of all co-defendants as well as those which will be filed today on behalf of all co-defendants.

The evidence at trial was insufficient to sustain a conviction on Count 1 of the Indictment.

IV. Grand Jury Matters

A. The Government Failed to Properly Instruct the Grand Jury

The Government failed to instruct the Grand Jury on any aspect of *quid pro quo*, either explicit (at least for campaign contributions) or otherwise. The Government did not dispute that its instructions to the Grand Jury omitted the *quid pro quo* concept altogether. If the Grand Jury had been properly instructed there is grave doubt whether the Grand Jury would have returned an indictment. Preuitt adopts the previously filed motions to this effect.

B. Geddie and Mean's Motions to Dismiss for Grand Jury Abuse

Preuitt adopted and now renews his adoption of the facts and arguments set out in Geddie's and Mean's Motions with regard to Grand Jury misconduct.

V. Jury Instructions

Preuitt renews his objections to the Court's Instructions to the Jury. These objections are included in Doc. 1623 and include not only the objections to the Court's Charge but also to the denial of Preuitt's Requested Jury Instruction.

VI. Additional Specific Grounds for Preuitt's Motion for Judgment of

Acquittal

A. Preuitt adopts and incorporates as if herein set forth each and every ground previously asserted by this defendant in his previously filed motions and objections, including those filed pre-trial, during trial and post-trial.

B. Preuitt adopts and incorporates as if herein set forth each and every ground previously asserted by co-defendants in their previously filed motions and objections, including those filed pre-trial, during trial and post-trial.

C. Preuitt adopts and incorporates as if herein set forth each and every ground previously asserted by this defendant in his pretrial motions including but not limited to his Motions to Dismiss, Motions in Limine, Motions concerning 404(b) evidence, and Motions for Bills of Particular.

D. The Defendant reasserts each and every motion and objection to which he has received an adverse ruling including those filed pre-trial, during trial and post-trial as if herein set forth.

WHEREFORE THE PREMISES considered, Defendant James E. Preuitt is entitled to entry of judgment of acquittal on his behalf on Counts 1, 9 and 38 of the Indictment and requests this Court to enter an Order granting this Motion.

RESPECTFULLY SUBMITTED this the 25th day of August, 2011.

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CERTIFICATE OF SERVICE

I hereby certify that on August 25, 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 counsel of record.

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