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

UNITED STATES OF AMERICA	)	
	)	
v.	)	CR. NO. 2:10cr186-MHT
	)	
MILTON E. MCGREGOR	)	
THOMAS E. COKER	)	
ROBERT B. GEDDIE, JR.	)	
JAMES E. PREUITT	)	
LARRY P. MEANS	)	
QUINTON T. ROSS, JR.	)	
HARRI ANNE H. SMITH	)	
JARRELL W. WALKER, JR.	)	
JOSEPH R. CROSBY	)	

UNITED STATES' SUPPLEMENTAL SUBMISSION TO THE COURT REGARDING THE SUFFICIENCY OF EVIDENCE AS TO COUNT ONE OF THE INDICMENT

The United States, through undersigned counsel, hereby submits the following supplemental brief at the close of evidence in opposition to the defendants' renewed motions for judgment of acquittal pursuant to Federal Rule of Criminal Procedure 29. On July 28, 2011, the Court denied each defendant's Rule 29 motion upon completion of the government's case. In the day that followed, the only additional evidence adduced at trial was the testimony of Richard Whitaker, the first and only witness called by defendant Coker. Following Whitaker's testimony, which provided significant corroboration for the government's case, each defendant rested. Because the evidence has only gotten worse for the defendants, the Court should once again deny the motions for judgment of acquittal and send this case, in its entirety, to the jury. In support of its position, and in response to prior inquiries from the Court, the government submits the following additional arguments:

I. Count Three

Count Three, charging defendants McGregor and Geddie with bribing cooperating witness

Barry Mask, provides just one example of the many instances in which defendant McGregor sought to influence a legislator's vote on pro-gambling legislation through the offer (and, in this instance, payment) of campaign contributions. The evidence in support of this count is clear: in a single conversation on February 15, 2010, J-004, defendant McGregor (1) told Mask, with whom he'd had no contact for approximately two years, that he needed Mask to be one of the 63 necessary votes to pass the pro-gambling legislation in the Alabama House of Representatives, and (2) offered to secure "significant" contributions for Mask's reelection campaign. Mask, a Republican, had never voted in favor of gambling legislation.

Toll records establish that shortly after his conversation with Mask, defendant McGregor called defendant Geddie, who, Mask testified, delivered two $2500 contributions to Mask's fundraiser that evening. The very next day, in a recorded conversation, J-006, defendant McGregor confirmed that the $5000 was provided in connection with their earlier conversation, telling Mask that he told defendant Geddie "what I wanted him to do and, uh, and he did it." Id. at 2. This evidence supports the conclusion that defendant McGregor acted with the necessary criminal intent, when he offered the payment (as well as the promise of more contributions from other donors he could influence) in connection with a specific requested official action—Mask's vote. The jury easily could conclude that defendant McGregor simply had no other reason to make the contribution to someone whom he had never supported and, indeed, actively opposed previously.

In addition, contrary to defendant McGregor's repeated assertion, Mask was not the first party to raise the issue of money. Rather, as Mask and Debbie Moore testified, it was an employee of defendant McGregor who originally contacted Moore and told her he wanted to purchase all 100 tickets to Mask's fundraiser. at $50 each. Although completed payment is not necessary to sustain

a bribery conviction, defendant McGregor actually carried through in this instance, providing additional evidence of his criminal intent.

As to defendant Geddie, the record contains ample evidence of his complicity in the bribe to Mask. His contribution ledger, which the government admitted into evidence, shows the checks to defendant Mask as attributed originally to defendant McGregor. But, as Cheryl Farrow confirmed, defendant Geddie instructed her to cross out the entries in defendant McGregor's ledger and attribute them to other lobbying clients. In light of the evidence establishing that defendant McGregor in fact directed defendant Geddie to deliver the checks, defendant Geddie's alteration of the ledger through Farrow and subsequent production of the misleading document to the grand jury provides compelling evidence of defendant Geddie's consciousness of guilt.

Further, other evidence in the record establishes that defendant Geddie was well aware of defendant McGregor's efforts to bribe state legislators in connection with the pro-gambling legislation and, more generally, to tie campaign support directly to votes. For example, in a conversation on March 18, 2010, J-140, defendant McGregor and defendant Geddie discussed Scott Beason, with defendant Geddie mentioning that his lobbying partner had a "pretty good conversation with Beason . . . but, you know, we, we've been down that road before." Id. at 3. In light of the evidence that defendant McGregor only recently had sought to bribe Beason, this conversation provides circumstantial support for defendant Geddie's illicit knowledge and participation in defendant McGregor's corrupt efforts. In addition, discussing Representative David Grimes, defendant Geddie specifically noted that "only reason that the number of people are helping his ass" was "one fucking vote." J-169 at 3-4. As a result, taking all inferences in the light most favorable to the government, the Court should deny defendant McGregor's and defendant Geddie's motions

for judgment of acquittal as to Count Three.

II. Counts One and Eight - Defendant Walker

Similarly, the evidence at trial established that defendant Walker actively sought to bribe defendant Preuitt in order to secure his favorable vote on SB380 during the month of March 2010. Much of this evidence comes directly from defendant Walker's own mouth. Indeed, wiretap recordings establish his unflagging eagerness to sway defendant Preuitt's vote by any means necessary. In a conversation with Massey on March 24, 2010, defendant Walker made clear his knowledge of (and willing participation in) the conspiracy to corrupt the legislative process, when he described his personal effort to bribe defendant Preuitt. During the conversation, J-073, defendant Walker described offering defendant Preuitt a poll and to provide campaign services in exchange for defendant Preuitt's vote: "And I said let me, let me do a poll so I, so Mowery and I can give you a scientific strategy and I said I'll do the poll. And uh, and of course I said all I need is your vote." Id. at 5. Defendant Walker's own words therefore make his complicity clear. Moroever, contrary to the position taken by his counsel, the offer of polls was specifically charged in the Indictment, Indict. ¶ 32, and Count Eight includes "other things of value" in addition to offers of $2 million and the services of country music stars. Defendant Walker clearly understood his offer of a poll to be a thing of value. J-073 at 5 ("Now I'm assuming the mother fucker wouldn't call me and tell me to pay for a goddamn poll and he ain't gonna be with us.").

As Jarrod Massey testified, it was also defendant Walker's idea to purchase trucks from defendant Preuitt's dealership. And although Massey, Ronnie Gilley, and Jennifer Pouncy testified that they did not take defendant Walker's idea seriously, they also testified that defendant Walker did. Later, in a conversation overheard between Gilley and defendant Preuitt (while Gilley was on

the phone with Jeff Rubin) on March 22, 2010, as established by corroborating toll records introduced during Special Agent Langmack's testimony, Gilley actually told defendant Preuitt that he likely would be bringing George Jones to his dealership to buy a truck, J-560, indicating that defendant Walker's idea was not merely idle chatter.

Moreover, throughout March 2010, defendant Walker spoke frequently with Massey and Gilley. The evidence at trial showed that his income was drying up and that Gilley offered to start paying him. In a conversation on March 20, 2010, defendant Walker confirmed his allegiance, telling Gilley, "I'm on the team" and, shortly thereafter, "I'm always on your team, brother." J-184. During the same conversation, defendant Walker and Gilley discussed defendant Walker's potential conversation with Preuitt, with Gilley telling defendant Walker that they should offer to "handle [defendant Preuitt's] damn campaign" and defendant Walker responding, "Shit I'll do it pro bono." Id. at2. When Gilley asserted that they would "blow the competition away" and followed up with "we'll wax their ass but you got to vote for us on this and you can buy a damn fleet if you have to while you're there," defendant Walker made his intention clear with a simple "Alright." Id.; see also GX1029A (e-mail from Gilley to Massey and defendant Walker, directing defendant Walker to visit defendant Preuitt in Talladega). It was that same week that defendant Walker met with defendant Preuitt at the Alabama statehouse to convey his bribe offers. GX1197A (text message from Pouncy to Massey confirming that defendant Walker was meeting with defendant Preuitt).

In sum, the evidence is sufficient for a reasonable juror to conclude that defendant Walker was a willing participant in the conspiracy to corrupt the legislative process and that he committed substantive bribery as to defendant Preuitt.

III. Count One - Defendant Crosby

During Rule 29 arguments, the Court inquired whether there was any evidence that defendant Crosby was aware of any of the other defendants' involvement in the conspiracy. Although, as the government argued, it is not necessary to show that defendant Crosby knew of anyone other than defendant McGregor in order to sustain a conspiracy conviction, the evidence establishes that in fact defendant Crosby was aware of defendant Coker's and defendant Geddie's involvement in defendant McGregor's efforts.

As a general matter, defendant Crosby knew that defendant McGregor was willing to engage in bribery because, as the evidence has established, defendant McGregor actually bribed defendant Crosby. To that end, based on defendant Crosby's monthly under-the-table acceptance of $3,000 from defendant McGregor and his ongoing stream of official action, the evidence supports the reasonable inference that defendant Crosby would have been aware that defendant McGregor was seeking improperly to influence others.

More specifically, in a conversation on March 12, 2010, defendant McGregor highlighted the fact that he had spoken with defendants Coker and Geddie, as well as defendant Geddie's lobbying partner, and that they had "worked certain legislators" in connection with the language in SB380. J-127. Coupled with the knowledge of his own bribe, defendant Crosby, a reasonable juror could conclude, would have known that defendants McGregor, Coker, and Geddie were not engaged in wholly legitimate efforts to sway legislators. Indeed, it was during this same conversation that defendant Crosby took specific direction from defendant McGregor with respect to the effective dates of appointments to the gaming commission, at one point asking defendant McGregor "would you still like [a 120-day period] in there?" Id. at 3. At bottom, defendant Crosby, like all the other players in the conspiracy, had his role, and it was to take

direction from defendant McGregor as to the drafting of SB380 and to facilitate defendant McGregor's receipt of information about the bill and whether legislators and lobbyists were taking steps that might undermine his goals. Because defendant Crosby was integral to the conspiracy—as counsel for defendant McGregor all but confirmed when he intimated that removing him from Count One would cut out a large amount of evidence—there is sufficient evidence to put this count as to him before the jury.

IV. Testimony of Richard Whitaker

Finally, the testimony of defendant Coker's own witness served primarily to buttress the government's case. Richard Whitaker testified on cross-examination that he often received input from defendant Coker, his friend of approximately forty years, when he made recommendations to the ALAPAC board regarding contributions. Indeed, Whitaker testified that his opinion carried great weight with the board.

Whitaker also confirmed that defendant Ross requested a contribution from ALAPAC after the 2010 session. Initially Whitaker was reluctant to contribute to defendant Ross because, as defendant Ross readily acknowledged, he was running unopposed. In addition, defendant Ross solicited significantly more than what Whitaker normally would contribute to candidates who had no opponent—i.e., approximately $20 thousand.

Whitaker also testified that he received a separate call from defendant Coker about contributing to defendant Ross. Critically, toll records confirmed a call from defendant Coker's cell phone to Whitaker's cell phone the day after the SB380 vote, on March 31, 2010, just hours after defendant Coker told defendant McGregor that "I'm gonna give [defendant Ross] a, a good, uh, check from the uh, medical association and from the soft drink folks." J-167 at 4.

Whitaker's testimony on this point provides compelling circumstantial evidence, tying the ALAPAC contribution to defendant Ross's conversations with defendant McGregor on March 29 and 30, 2010, in which they discussed votes on SB380 and defendant Ross's need for campaign contributions.

Moreover, Whitaker's take on defendant Ross's heavy-handed tactics corroborates the testimony of Pouncy and Massey, who stated that defendant Ross was very aggressive in his entreaties during the legislative session and that he asked for amounts upwards of $20 to $25 thousand dollars, an amount consistent with what he sought from Whitaker. See J-044 at 3-4 (Massey tells Gilley on March 14, 2010, that defendant Ross introduced a competing gambling bill, was getting "real aggressive on this fundraising," and had solicited $20,000 from Massey, and that in response to defendant Ross's efforts defendant Coker was "bitching about it the other day").

Finally, Whitaker testified that, in his view, it was clearly improper—even illegal—to discuss campaign contributions in connection with specific legislation. In short, Whitaker's testimony corroborates the government's case, and provides additional support for the charges against at least defendants Ross, Coker, and McGregor.

V. Conclusion

For the foregoing reasons, and those articulated during the government's argument on March 27, 2011, the Court should deny the defendants' renewed motions for judgment of acquittal under Rule 29. Unless the Court concludes that no reasonable juror could find beyond a reasonable doubt that any particular defendant committed any crime with which he or she is charged, all counts should remain for the jury's consideration.

Respectfully submitted,

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Acting Under Authority of 28 U.S.C. § 515

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CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2011, I filed the foregoing using the Court's CM/ECF system, which will provide notice to counsel of record.

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