

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT SMITH'S REQUESTED JURY INSTRUCTIONS

COMES NOW the defendant, Harri Anne Smith, by and through her attorney of record, and requests this Honorable Court to propound the following requested instructions to the jury in the above styled cause.

Respectfully submitted on this the 27th day of May, 2011.

Respectfully submitted,

s/James W. Parkman, III
JAMES W. PARKMAN, III
ATTORNEY FOR
HARRI ANNE SMITH

OF COUNSEL:

Parkman, Adams & White, LLC
505 North 20th Street, Suite 825
Birmingham, AL 35203
(205) 244-1920
parkman@parkmanlawfirm.com

CERTIFICATE OF SERVICE

I hereby certify that I have filed the foregoing using the CM/ECF filing system, which will serve notice upon all counsels of record on this the 27th day of May, 2011.

Respectfully submitted,

s/ James W. Parkman, III
OF COUNSEL

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 1

I charge you, members of the jury, that as a matter of law, where a conviction for a criminal offense is sought upon circumstantial evidence alone, the Government must not only show that the alleged facts and circumstances are true, but they must be such facts and circumstances that are true, and they must be such facts and circumstances as are absolutely incompatible upon any reasonable hypothesis other than that of the guilt of the accused. Therefore, if you find, based upon the evidence, that the Government did not prove beyond a reasonable doubt that the alleged facts and circumstances are not only true, but they are such facts and circumstances as are absolutely incompatible upon any reasonable hypothesis other than that of the guilt

of the accused, then you must find the defendant not guilty.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley, Eleventh

Circuit, Vol. 3 §72.03

ADMITTED

—

REFUSED

—

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 2

I charge you, members of the jury, that mere knowledge or approval, without participation, does not make one party to a conspiracy. Furthermore, mere association does not establish a conspiracy, but there must be intentional participation in the transaction with a view to the furtherance of the common design and purpose.

U.S. v. Martin, 790 F.2d 1215, 1219 (5th Cir. 1986)

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O’Malley, Eleventh Circuit, Vol. 2 § 28.05

ADMITTED

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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 3

I charge you, members of the jury, that mere presence at the scene of a transaction or event, or the mere fact that certain persons may have associated with each other, and may have assembled together and discussed common aims and interests, does not necessarily establish proof of conspiracy.

U.S. v. Burton, 871 F.2d 1566, 1571-1572 (11th Cir. 1989)

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O’Malley, Eleventh Circuit, Vol. 2 §28.06

ADMITTED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 4

I charge you, members of the Jury, that neither association with conspirators nor knowledge of illegal activity constitutes proof of participation in a conspiracy or the allegations contained in Count One of the Indictment.

U.S. v. Burton, 871 F.2d 1576, 1571-1572 (11th Cir. 1989)

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O’Malley, Eleventh Circuit, Vol. 2 §28.05

ADMITTED

REFUSED

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 5

I charge you, members of the Jury, that the testimony of any informant, someone who provides evidence against someone else for money, or to escape punishment for his own misdeeds or crimes, or for other personal reason or advantage, must be examined and weighed by the jury with greater care than the testimony of a witness who is not so motivated.

Ronald Gilley and Jarrod Massey may be considered to be informants in this case.

The jury must determine whether the informant’s testimony has been affected by self-interest, or by the agreement he has with the government, or his own interest

in the outcome of this case, or by prejudice against the defendant.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley, Eleventh
Circuit, Vol. 1 §15.04

ADMITTED

REFUSED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 6

I charge you, members of the Jury, that the testimony of an immunized witness, someone who has been told either that their crimes will go unpunished in return for testimony or that their testimony will not be used against them in return for that cooperation, must be examined and weighed by the jury with greater care than the testimony of someone who is appearing in court without the need for such an agreement with the government.

Ronald Gilley may be considered to be an immunized witness in this case.

The jury must determine whether the testimony of the immunized witness has been affected by self-interest, or by the agreement he or she has with the government, or by his or her own interest in the outcome of this case, or by prejudice

against the defendant.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley, Eleventh

Circuit, Vol. 1 §15.03

ADMITTED

REFUSED

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 7

I charge you, members of the Jury, that the testimony of a witness addicted to drugs, someone who provides evidence against someone else for money, or to escape punishment for his own misdeeds or crimes, or for other personal reason or advantage, must be examined and weighed by the jury with greater care than the testimony of a witness who is not so motivated.

Ronald Gilley may be considered to be someone addicted to drugs in this case.

The jury must determine whether the witness’s testimony has been affected by self-interest, or by the agreement he has with the government, or his own interest in

the outcome of this case, or by prejudice against the defendant.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley, Eleventh

Circuit, Vol. 1 §15.02

ADMITTED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO. 8

I charge you, members of the jury, the testimony of a witness may be discredited or impeached by evidence showing that the witness has been convicted of a felony, a crime for which a person may receive a prison sentence of more than one year.

Prior conviction of a crime that is a felony is one of the circumstances which you may consider in determining the credibility of that witness.

It is the sole and exclusive right of the jury to determine the weight to be given to any prior conviction as impeachment and the weight to be given to the testimony

of anyone who has previously been convicted of a felony.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley, Eleventh

Circuit, Vol. 1 §15.07

ADMITTED

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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 9

I charge you, members of the jury, the testimony of an alleged accomplice, someone who said he participated with another person in the commission of a crime, must be examined and weighed by the jury with greater care than the testimony of a witness who did not participate in the commission of that crime.

Ronald Gilley and Jarrod Massey may be considered to be an alleged accomplice in this case.

The fact that an alleged accomplice has entered a plea of guilty to another offense is not evidence of the guilt of any other person, including the defendant.

The jury must determine whether the testimony of the accomplice has been affected by self-interest, or by an agreement he may have with the government, or by

his own interest in the outcome of this case, or by prejudice against the defendant.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley, Eleventh

Circuit, Vol. 1 §15.04

ADMITTED

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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 10

I charge you, members of the jury, in deciding whether you believe or do not believe any witness, let me suggest to you certain questions that you might ask yourself. Ask yourself whether or not the witness impressed you as one who was telling the truth? Did the witness have any particular reason not to tell the truth in testifying? Did the witness have a personal interest in the outcome of the case? ...Was there any difference in the testimony of the various witnesses? That is, were there things that corroborated the testimony of a witness or contradicted the testimony of a witness? ... You should also ask yourself whether there has been evidence tending to prove that a witness testified falsely concerning some important fact or whether there was the testimony of an ordinary witness. The jury must determine whether the informer’s testimony has been affected by interest or by prejudice against the

Defendant' (emphasis added).

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley,
Eleventh Circuit, Vol. 1 §15.04

United States v. Solomon, 856 F.2d 1572, 1578 n. 27 (11th Cir. 1988), cert.
denied, 489 U.S. 1070, 109 S.Ct. 1352, 103 L.Ed. 820 (1989).

ADMITTED

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HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 11

I charge you, members of the jury, in this case the Government called as one of its witnesses a person [names as a co-defendant in the indictment] with whom the Government has entered into a plea agreement providing for [the dismissal of some charges] [and/or] [the possibility of a lesser sentence than what the witness would normally face]. Such plea bargaining, as it is called, is lawful and proper, and the rules of this Court expressly provide for it. However, a witness who hopes to gain more favorable treatment may have a reason to make a false statement in order to strike a good bargain with the Government.

And the fact that a witness had pled guilty to the crime charged in the indictment is not evidence, in and of itself, of the guilt of any other person.

Another type of witness is one who testifies about events that occurred during a

time when the witness was using addictive drugs, and so the witness may have an impaired memory of those events.

So, while any of these kinds of witnesses may be entirely truthful when testifying, you should consider their testimony with more caution than the testimony of other witnesses.

Special instructions-Combination 1.1,1.2 and 1.3

Accomplice-Plea Agreement-Addictive Drugs-Immunity

ADMITTED

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MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 12

I charge you, members of the jury, it would not be illegal, in and of itself, for Defendant Harri Ann Smith to solicit or accept political contributions from individuals or corporations who would benefit from the legislation.

McCormick v. U.S., 500 U.S. 257, 111 S.Ct. 1807 (1991)

ADMITTED

REFUSED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 13

I charge you, members of the jury, many public officials receive legitimate political contributions from individuals or corporations who, the official knows, is/are motivated by a general gratitude toward her because of her position on certain issues important to them, or even in the hope that the good will generated by such contributions will make the official more receptive to their cause.

McCormick v. U.S., 500 U.S. 257, 111 S.Ct. 1807 (1991)

ADMITTED

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IN THE UNITED STATES DISTRICT COURT
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HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 14

I charge you, members of the jury, that in order to find Harri Anne Smith guilty of bribery, extortion, you must be convinced beyond a reasonable doubt that any campaign contribution alleged in a given court of this indictment was made by or on behalf of any person or corporation with the expectation that such contribution would influence Harri Anne Smith’s official conduct and with knowledge on the part of Harri Anne Smith that they were paid to her with that expectation by virtue of the office she held.

McCormick v. U.S., 500 U.S. 257, 111 S.Ct. 1807 (1991)

ADMITTED

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V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 15

I charge you, members of the jury, that proof of an explicit “quid pro quo” is necessary to convict an elected official for bribery or extortion of a campaign contribution; in that, there must be a promise by the elected official to perform an official act in return for a campaign contribution.

McCormick v. U.S., 500 U.S. 257, 111 S.Ct. 1807 (1991)

ADMITTED

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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 16

I charge you, members of the jury, factors to consider in determining whether or not the Government has proven bribery or extortion beyond a reasonable doubt are:

- (a) Whether payments made to an elected official are in fact campaign contributions, and
- (b) Whether the official had supported the legislation before the time of the contribution.

McCormick v. U.S., 500 U.S. 257, 111 S.Ct. 1807 (1991)

ADMITTED

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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 17

I charge you, members of the jury, serving constituents and supporting legislation that will benefit the district and individuals and groups therein is the everyday business of a legislator. It is also true that campaigns must be run and finance. Money is constantly being solicited on behalf of candidates, who run on platforms and who claim support on the basis of their views and what they intend to do or have done. Whatever ethical considerations and appearances may indicate, it is not unlawful for any legislation to act for the benefit of constituents or support legislations

furthering the interests of some of their constituents.

McCormick v. U.S., 500 U.S. 257, 111 S.Ct. 1807 (1991)

ADMITTED

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V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 18

I charge you, members of the jury, the receipt of contributions by an elected official becomes improper only if the payments are made in return for an explicit promise or undertaking by the official to perform or not to perform an official act. In such situations, the official asserts that his official conduct will be controlled by the terms of the promise or undertaking.

McCormick v. U.S., 500 U.S. 257, 111 S.Ct. 1807 (1991)

ADMITTED

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IN THE UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 19

I charge you, members of the jury, that if the payments to Harri Anne Smith were campaign contributions, the Government must prove beyond a reasonable doubt a “quid pro quo”, in that the public official demands payment as inducement for the promise to perform an official act.

McCormick v. U.S., 500 U.S. 257, 111 S.Ct. 1807 (1991)

ADMITTED

REFUSED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 20

I charge you, members of the jury, the solicitation of campaign contributions from any person is a necessary and permissible form of political activity on the part of persons who seek political office and persons who have been elected to public office.

U.S. v. Dozier, 672 F.2d 531 (5th Cir. 1982)

ADMITTED

REFUSED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 21

I charge you, members of the jury, that the law does not restrict the size of contributions that a public office may solicit.

U.S. v. Dozier, 672 F.2d 531 (5th Cir. 1982)

ADMITTED

REFUSED

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
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UNITED STATES OF AMERICA, *

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HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 22

I charge you, members of the jury, bribery includes a situation where a public official accepts or offers to accept anything of apparent or prospective value with the specific intent to influence his/her conduct in relation to his/her position or duty.

U.S. v. Dozier, 672 F.2d 531 (5th Cir. 1982)

ADMITTED

REFUSED

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 23

I charge you, members of the jury, a witnesses state of mind, how a witness feels or doesn’t fell about something, is only evidence of that witness’s perception of events as they occurred. Do not consider them as a conclusive legal opinion.

U.S. v. Dozier, 672 F.2d 531 (5th Cir. 1982)

ADMITTED

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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
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HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 24

I charge you, members of the jury, the term “quid pro quo” means that the public official receives a payment in return for his agreement to perform specific official acts or not to act.

Evans v. U.S., 504 U.S. 255, 112 S. Ct. 1881 (1992)

U.S. v. Davis, 30 F.2d 108 (11th Cir. 1994)

ADMITTED

REFUSED

IN THE UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 25

I charge you, members of the jury, the term “explicit agreement” means the inducement from the official is express or it is implied from his words and actions, so long as the official intends the payor to believe that absent the payment the official is likely to abuse his/her office and trust to the detriment and injury of the prospective payor or to give the payor less favorable treatment if the “quid pro quo” is not satisfied.

Evans v. U.S., 504 U.S. 255, 112 S. Ct. 1881 (1992)

U.S. v. Davis, 30 F.2d 108 (11th Cir. 1994)

ADMITTED

REFUSED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 26

I charge you, members of the jury, you should not convict Harri Anne Smith for her exercise of free speech and the right to support issues of great public importance.

U.S. v. Siegelman, (11th Cir. May 10, 2011)

ADMITTED

REFUSED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 27

I charge you, members of the jury, you should not convict Harri Anne Smith on just the proof that she accepted a campaign donation followed by an act favorable toward the donor.

U.S. v. Siegelman, (11th Cir. May 10, 2011)

ADMITTED

REFUSED

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 28

I charge you, members of the jury, only if the campaign contributions are made in return for an explicit promise or undertaking by a state official to perform or not to perform an official act, are they considered unlawful donations.

U.S. v. Siegelman, (11th Cir. May 10, 2011)

ADMITTED

REFUSED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 29

I charge you, members of the jury, that federal fraud, bribery, conspiracy, extortion, or honest services fraud requires an “explicit promise” and a “quid pro quo”; in that the public official demands the payment as inducement for the promise to perform or not to perform an official act. In other words, the official intended to alter her official actions as a result of the receipt of campaign contributions or other benefits.

U.S. v. Siegelman, (11th Cir. May 10, 2011)

ADMITTED

REFUSED

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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 30

I charge you, members of the jury, you should not convict the defendant, Harri Anne Smith, or bribery unless she made an “explicit promise” to take a specific action in exchange for any campaign contribution. Not generalized expectation of some future favorable actions will do.

U.S. v. Siegelman, (11th Cir. May 10, 2011)

ADMITTED

REFUSED

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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 31

I charge you, members of the jury, you cannot convict Defendant, Harri Anne Smith, of bribery or honest services fraud, or extortion unless you find beyond a reasonable doubt that Defendant Smith and another person agreed that she would take specific action in exchange for a campaign contribution.

U.S. v. Siegelman, (11th Cir. May 10, 2011)

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UNITED STATES OF AMERICA, *

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HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 32

I charge you, members of the jury, the government must prove beyond a reasonable doubt an explicit agreement to pay campaign contributions so as to buy the vote of a public official before the conduct is unlawful.

U.S. v. Siegelman, (11th Cir. May 10, 2011)

ADMITTED

REFUSED

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MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,

*

V.

*

CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH,

*

DEFENDANT.

*

DEFENDANT'S REQUESTED CHARGE NO: 33

I charge you, members of the jury, Defendant, Harri Anne Smith, may only be held criminally liable for any other person's or co-defendant's conduct if she was a knowing party to a scheme that included that conduct.

U.S. v. Siegelman, (11th Cir. May 10, 2011)

ADMITTED

REFUSED

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UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 34

I charge you, members of the jury, that you are here to determine from the evidence in this case whether the defendant is guilty or not guilty. The defendant is on trial only for the specific offense alleged in the indictment.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O’Malley, Eleventh Circuit, Vol. 1 § 12.10 Fourth Edition

ADMITTED

REFUSED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT'S REQUESTED CHARGE NO: 35

I charge you, members of the jury, a separate crime or offense is charged in each of the indictment. Each charge and the evidence pertaining to it should be considered separately. The fact that you may find Defendant Smith guilty or not guilty as to one of the offenses charged should not affect your verdict as to any other offense charged.

I caution you, members of the jury, that you are here to determine from the evidence in this case whether the defendant is guilty or not guilty. The defendant is on

trial only for those specific offenses alleged in the indictment.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley, Eleventh

Circuit, Vol. 1 § 12.12 Fourth Edition

ADMITTED

REFUSED

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
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UNITED STATES OF AMERICA, *

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HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 36

I charge you, members of the jury, a separate crime is alleged against one or more of the defendants in each count of the indictment. Each alleged offense, and any evidence pertaining to it, should be considered separately by the jury. The fact that you find one defendant guilty or not guilty of one of the offenses charged should not control your verdict as to any other offense charged against that defendant or against any other defendant.

You must give separate and individual consideration to each charge against each defendant.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley, Eleventh Circuit, Vol. 1, § 12.13 Fourth Edition

ADMITTED

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MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA, *

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HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT'S REQUESTED CHARGE NO: 37

I charge you, members of the jury, that it is your duty to give separate and personal consideration to the case of each individual defendant. When you do so, you should analyze what the evidence in the case shows with respect to that individual defendant leaving out of consideration entirely any evidence admitted solely against some other defendant or defendants.

Each defendant is entitled to have his or her case determined from evidence as to his or her own acts, statements, and conduct and any other evidence in the case which may be applicable to him or her.

The fact that you return a verdict of guilty or not guilty to one defendant should

not, in any way, affect your verdict regarding any other defendant.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley,
Eleventh Circuit, Vol. 1, § 12.14 Fourth Edition

ADMITTED

REFUSED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 38

I charge you, members of the jury, the credibility of a witness may be discredited or impeached by evidence showing that the general reputation of the witness for truth and veracity is bad.

If you believe a witness has been so impeached and thus discredited, it is your exclusive right to give the testimony of the impeached witness such weight, if any, you think it deserves.

You may consider this evidence of bad reputation for truthfulness as one of the

circumstances you assess in determining whether or not to believe the testimony of that witness.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley,
Eleventh Circuit, Vol. 1 § 15.09 Fourth Edition

ADMITTED

REFUSED

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

UNITED STATES OF AMERICA, *

V. * CASE NUMBER: 2:10cr186-MHT

HARRI ANNE SMITH, *

DEFENDANT. *

DEFENDANT’S REQUESTED CHARGE NO: 39

I charge you, members of the jury, evidence that an act was done or that an offense was committed by Defendant Smith at some other time is not, of course, any evidence or proof whatever that, at another time, the defendant performed a similar act or committed a similar offense, including the offense charged in this indictment.

Evidence of a similar act or offense may not be considered by the jury in determining whether Defendant Smith actually performed the physical acts charged in this indictment. Nor may such evidence be considered for any other purpose, whatever, unless the jury first finds beyond a reasonable doubt from other evidence in the case, standing alone, that the defendant physically did the act charged in this indictment.

If the jury should find beyond a reasonable doubt from other evidence in the case that Defendant Smith did the act or acts alleged in the particular count under

consideration, the jury may then consider evidence as to an alleged earlier act of a like nature in determining the state of mind or intent with which Defendant Smith actually did the act or acts charged in the particular count.

The defendant is not on trial for any acts or crimes not alleged in the indictment. Nor may a defendant be convicted of the crime[s] charges even if you were to find that he or she committed other crimes—even crimes similar to the one charged in this indictment.

Federal Jury Practice and Instructions, Devitt, Blackman, Wolff & O'Malley, Eleventh Circuit, Vol. 1 § 17.08 Fourth Edition

ADMITTED

REFUSED
