

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

v.

CRIMINAL CASE NO. 3:09CR002

BOBBY B. DELAUGHTER

**GOVERNMENT'S COMBINED MEMORANDUM  
OF AUTHORITIES AND MOTION IN LIMINE**

Comes now the United States of America by and through the United States Attorney for the Northern District of Mississippi, and respectfully moves the Court in limine to exclude certain irrelevant and immaterial evidence in the trial of this cause. In support whereof the government would respectfully show unto the Court the following facts, to-wit:

1.

Government counsel has reason to anticipate that defendant Bobby DeLaughter may well intend to proffer evidence that he did not rule contrary to law while the presiding judge in Wilson v. Scruggs, a case that was litigated for more than a decade in the Circuit Court of Hinds County, Mississippi. Any effort to prove that his rulings were not contrary to law would be irrelevant and immaterial for the reasons hereinafter set forth, and would effectively double or triple the length of the trial sub judice. The government anticipates sworn testimony that defendant Scruggs and his legal team did not seek rulings that were contrary to law. The \$1,000,000 Balducci, Langston and others will testify they paid Ed Peters was to influence Judge DeLaughter, not only to obtain favorable rulings, but also rulings that would survive appellate scrutiny. Additionally, the law does not require proof that Judge DeLaughter ruled contrary to law in order to deprive the plaintiffs and the citizens of the State of Mississippi of their

intangible right to fair and honest services.

2.

In United States v. Brumley, 116 F.3d 728 (5<sup>th</sup> Cir. 1977), the pivotal case in the Fifth Circuit regarding honest services mail fraud, Brumley was a Texas Industrial Accident Board (IAB) magistrate who accepted “loans” totaling \$86,730 from John Cely, an attorney whose firm enjoyed a substantial workers compensation practice before Brumley. “At trial the government stipulated that it would not try to prove that any IAB award was enhanced by Brumley or that any claimant was awarded more money by Brumley or that Brumley referred any unrepresented claimant to an attorney (Cely or his firm)” Brumley at 735. “The quid pro quo was intangible . . .” It was the secret relationship Brumley enjoyed with Cely and his associates, undisclosed to counsel opposite, that was in the Fifth Circuit’s estimation sufficient to constitute honest services fraud. The government and the Fifth Circuit apparently acknowledged that Brumley could probably show that his rulings were not contrary to law and that he had done Cely and his firm no special favors. It didn’t matter.

3.

In counsel opposite’s circuit, the Seventh Circuit Court of Appeals has stated the issue even more succinctly. In United States v. Shields, 999 F.2d 1090 (7<sup>th</sup> Cir. 1993), the court noted that:

The defense makes much of the fact that Shields’ rulings in Nichols v. Wilson were legally correct. This misses two essential points. First and most obvious, issuing a judgment compelled or supported by law is no defense to taking a bribe. And since even parties with winning cases may benefit from fixing a case by buying certainty of a favorable ruling, a legally correct decision conveys no useful information about the likelihood that the judge has been bribed.

Shields, p. 1096 (emphasis added).

Evidence that all DeLaughter's rulings were not contrary to law could reasonably be expected to take weeks of trial time. Because it would "convey no useful information," the government respectfully suggests that such evidence would be both irrelevant and immaterial and should therefore be excluded.

Respectfully submitted,

JIM M. GREENLEE  
United States Attorney

*/s/ Robert H. Norman*

By:

ROBERT H. NORMAN  
Assistant United States Attorney  
Mississippi Bar No. 3880

**CERTIFICATE OF SERVICE**

I, ROBERT H. NORMAN, Assistant United States Attorney, hereby certify that I electronically filed the foregoing **GOVERNMENT'S COMBINED MEMORANDUM OF AUTHORITIES AND MOTION IN LIMINE** with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Honorable John D. Cline  
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This the 22nd day of June, 2009.

/s/ Robert H. Norman  
ROBERT H. NORMAN  
Assistant United States Attorney