

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

vs.

CASE NUMBER: 3:18-cr-89-J-34JRK

REGINALD BROWN

_____ /

**DEFENDANT REGINALD BROWN'S MOTION IN LIMINE,
EVIDENCE OF HIS VOTE ON ORDINANCE 2011-290-E,
AND MEMORANDUM OF LAW**

The Defendant, Reginald Brown, by and through the undersigned attorney, pursuant to Rules 104, 403, 404(b) of the Federal Rules of Criminal Procedure, hereby moves this Honorable Court to exclude the following evidence: evidence related to Mr. Brown's vote on Ordinance 2011-290-E when he was a City Council person. As grounds for this motion, Defendant states as follows:

1. Katrina Brown and Reginald Brown are charged in a multi-count Indictment returned May 23, 2018. Count One charges each with conspiracy to commit mail and wire fraud in violation of Section 18 U.S.C. §1349. Counts Two through Fourteen charge each with substantive counts of mail fraud in violation of U.S.C. §1341 and §2. Counts Fifteen through Twenty-Seven charge each with substantive counts of wire fraud in violation of 18 U.S.C. §1343 and §2. Counts Twenty-Eight through Thirty-Three charge each with substantive counts of money laundering in violation of 18 U.S.C. §1957 and §2. Mr. Brown alone is charged with a failure to file a 1040 tax form in Count Thirty-Eight.

2. The essence of the wire fraud, mail fraud, and money laundering allegations

are that Katrina Brown and Reginald Brown concocted a scheme to defraud certain lenders of funds intended to finance a separate business venture of Katrina Brown and others. The business venture was the production and distribution of a highly regarded barbecue sauce perfected by Katrina Brown's father.

3. Paragraph 9 of the Indictment provides as follows:

"On May 24, 2011, the Jacksonville City Council voted 14-3 to pass and enact Ordinance 2011-290-E, which approved a loan (\$380,000) and grant (up to \$260,000) from the COJ Northwest Jacksonville Economic Development Fund (NWJEDF) for the benefit of KJB Specialties. The loan money was ultimately used to help purchase a manufacturing facility located at 5638 Commonwealth Avenue, Jacksonville, Florida (Commonwealth warehouse). The grant money was supposed to help create fifty-six (56) permanent jobs in the northwest area of Jacksonville. REGINALD BROWN voted in favor of the Ordinance."

4. The conspiracy between Katrina Brown and Reginald Brown is not alleged to have started until late in 2013. The evidence is unclear as to whether Mr. Brown and Ms. Brown even knew each other in May 2011.

5. Mr. Brown contends the last sentence of paragraph 9 specifically, that Reginald Brown voted in favor of the ordinance is neither relevant nor material to the charges in the Indictment. One inference from the reference to Mr. Brown in this sentence is that he was working with Katrina Brown and her family from 2011. There is simply no evidence to support this inference. It is prejudicial to Mr. Brown.

MEMORANDUM OF LAW

Rule 401 of the Federal Rules of Evidence defines relevant evidence as:(a) it has a tendency to make a fact more or less probable; and (b) the fact has consequence in

determining the action. Rule 402 provides relevant evidence is admissible unless one of the designated exceptions apply.

Mr. Brown contends his vote with 13 other City Council members in favor of the ordinance does not make it more or less likely that he knowingly and willfully agreed to commit the crimes charged with Katrina Brown over 2½ years after the vote. As a result, the fact is of no consequence in determining the action.

Rule 403 of the Federal Rules of Evidence permits the Court to exclude “relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusion of the issues, misleading the jury, wasting time or needlessly presenting cumulative evidence.” Rule 404(b) generally permits evidence of other crimes, wrongs or acts to prove a limited class of issues “motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake.”

Assuming arguendo, the evidence is marginally relevant, Mr. Brown contends the Court should exclude it pursuant to Rule 403. The inference the government hopes the jury will make is the Browns were working together as early as 2011 and Mr. Brown abused his power as public figure to advance the bill for his personal gain. There is simply no evidence to support this proposition. The United States alleges the conspiracy intended to defraud a lender. Evidence related to Mr. Brown’s vote on the initial enabling legislation is more likely to cause unfair prejudice, confusion of the issues and mislead the jury. The Court should exclude the evidence.

To the extent the evidence suggests Mr. Brown abused his authority as a public official, then it constitutes other crimes evidence as defined by Rule 404(b). However, in this case, evidence concerning Mr. Brown’s vote on the ordinance does not satisfy any of

the factors listed in 404(b) for admitting the evidence. Therefore, the evidence should be excluded.

WHEREFORE, the Defendant, Mr. Brown respectfully requests this Honorable Court grant this motion.

Respectfully submitted,

S:// Thomas M. Bell

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June __, 2019, I electronically filed the foregoing with the clerk of the Court by using CM/ECF system which will send a notice of electronic filing to A. Tysen Duva, AUSA, Michael Coolican, AUSA, John P. Leombruno, Esq., and Richard Landes, Esq.

S:// Thomas M. Bell
THOMAS M. BELL