

FILED

MAR 14 2008

DAVID G. GUNDS, CLERK
By *J. Adams*
Deputy

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

v.

CRIMINAL CASE NO. 3:07CR192

SIDNEY A. BACKSTROM

FACTUAL BASIS

Were the case to go to trial the Government would expect to prove by judicial notice, the presentation of documentary evidence and tape recordings, and the factual testimony of lay witnesses that between March 2007 and November 2007 in the Northern District of Mississippi Timothy R. Balducci, Sidney A. Backstrom, Richard F. "Dickie" Scruggs, Steven A. Patterson and others conspired to bribe a state circuit court judge.

The evidence would show that in March 2007 a lawsuit was filed in the Circuit Court of Lafayette County, Mississippi, styled Jones, et al, v. Scruggs, et al, that being Civil Action No. LO7-135. The case was assigned to state Circuit Judge Henry Lackey, and defendant Richard F. "Dickie" Scruggs and the Scruggs Law Firm were named as defendants in that \$26.5 million dollar lawsuit. During the latter part of March 2007, during a meeting at the Scruggs Law firm, the Jones v. Scruggs case was being discussed. Knowing that Timothy R. Balducci and Judge Lackey had been friends for many years, the co-conspirators asked Balducci to explore the possibility of corruptly influencing the judge.

On or about March 28, 2007, Mr. Balducci met with Judge Lackey and explained to the judge that he would consider it a personal favor if the judge could resolve the lawsuit in favor of Dickie Scruggs and the Scruggs Law Firm. During the same conversation, Balducci expressed the desire to have Judge Lackey become of counsel with his law firm upon his retirement, a

position which would result in Judge Lackey being paid by the firm simply to allow the use of his name on the firm's letterhead.

On May 4, 2007, Sidney A. Backstrom sent a proposed order to Timothy R. Balducci. Balducci faxed an edited version of that order to Circuit Judge Henry Lackey.

On or about May 9, 2007, Timothy R. Balducci told Judge Lackey that his relationship with Dick Scruggs was such that they could talk very privately and that if the judge was inclined to rule in Scruggs' favor everything would be good. Balducci assured Judge Lackey that the only other person in the world who knew about their discussions was Dickie Scruggs.

Later, on September 21, 2007, Balducci agreed to pay Judge Lackey \$40,000 in cash on behalf of Richard F. "Dickie" Scruggs and the Scruggs Law Firm, for an order favorable to them. Immediately after meeting with Judge Lackey and agreeing on the \$40,000 figure, Balducci placed a four-minute phone call to the Scruggs Law Firm and discussed the \$40,000 bribe with Sidney A. Backstrom.

On September 27, 2007, Timothy Balducci delivered an initial installment of \$20,000 cash to Judge Henry Lackey at his chambers in Calhoun County, Mississippi. Balducci then traveled to Oxford to the Scruggs Law Firm.

On October 18, 2007, Richard F. "Dickie" Scruggs had a telephone conversation with Steven A. Patterson wherein they discussed "the order." Scruggs asked Patterson to have Balducci leave the order on his desk and pick up a package. On that same date Timothy R. Balducci delivered \$10,000 cash to Judge Lackey, picked up an order from Lackey, delivered it to the Scruggs Law Firm, and picked up a package containing a \$40,000 check and false documentation designed to conceal the true purpose of the \$40,000. That same day Timothy R. Balducci called Sidney A. Backstrom and told him he had delivered a copy of "those papers

we've been waiting on" referring to the order obtained by bribery.

On November 1, 2007, Balducci delivered a final \$10,000 cash to Judge Lackey and obtained an amended order favorable to the Scruggs Law Firm. Later that day, having been confronted and having agreed to cooperate with the government, Balducci wore a body recorder and engaged Sidney A. Backstrom and David Zachary Scruggs in conversation regarding the order. Both Zach Scruggs and Sidney Backstrom made comments regarding the order and expressed opinions about whether or not it accomplished what was needed. At one point Balducci said, "We paid for this ruling; let's be sure it says what we want it to say." Balducci thereafter engaged Richard F. "Dickie" Scruggs in recorded conversation regarding the judge's "exposure" and the need to pay him an additional \$10,000. Dickie Scruggs agreed to take care of it and asked Balducci for advice on how to handle that. Balducci agreed to prepare "jury instructions" for which he would be paid \$10,000 to reimburse him for an additional payment to the judge.

On November 5, 2007, Richard F. "Dickie" Scruggs caused an e-mail to be sent to Timothy R. Balducci forwarding part of the false documentation to cover the additional \$10,000. That same day Balducci traveled to Oxford and took delivery of a Scruggs Law Firm \$10,000 check.

On or about November 13, 2007, Timothy R. Balducci and Sidney A. Backstrom had a recorded telephone conversation wherein they discussed the bribery scheme and the benefit of an order favorable to the Scruggs Law Firm.

Finally, the government would put on evidence to show that Circuit Clerk Judge Henry Lackey was an agent of both Lafayette County, Mississippi, and the Administrative Office of Courts and that the bribe paid to Judge Lackey was in connection with a business transaction or

series of transactions of both Lafayette County and the Administrative Office of Courts. Also, the government would show that both agencies received in a one-year period of the offense charged benefits in excess of \$10,000 under a federal program involving a grant, subsidy, loan, guarantee, insurance or other form of federal assistance.