

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF MISSISSIPPI

3 UNITED STATES OF AMERICA . Docket No. 3:07CR192
4 Plaintiff . Oxford, Mississippi
5 v. . January 15, 2008
6 STEVEN A. PATTERSON . 10:00 a.m.
7 Defendant .
8

9 CHANGE OF PLEA AS TO COUNT ONE OF THE INDICTMENT
10 BEFORE THE HONORABLE NEAL B. BIGGERS
11 U.S. SENIOR DISTRICT JUDGE

12 APPEARANCES:

13 For the Plaintiff: United States Attorney's Office
14 Northern District of Mississippi
BY: BOB NORMAN, ESQ.
15 900 Jefferson Avenue
Oxford, Mississippi 38655-3608

16 For the Defendant: RONALD D. MICHAEL, ESQ.
17 Attorney at Law
1700 North Second Street
18 Booneville, Mississippi 38829

19 HIRAM CHESTER EASTLAND, JR., ESQ.
20 Eastland Law Offices, PLLC
307 Cotton Street
21 Greenwood, Mississippi 38930
662-453-1227

22 Court Reporter: Rita Davis Sisk
23 911 Jackson Avenue, Room 369
Oxford, Mississippi 38865
24 (662) 281-3027

25 Proceedings recorded by mechanical stenography, transcript
produced by computer.

1 (Call to Order of the Court)

2 THE COURT: All right, gentlemen. We have a matter
3 set for this morning in *U.S. v. Steven A. Patterson*.

4 Mr. Eastland, Mr. Michael, does your client wish to enter a
5 plea of guilty at this time?

6 MR. MICHAEL: Yes, sir, he does.

7 THE COURT: All right. Is the Government ready to
8 proceed on that?

9 MR. NORMAN: Yes, Your Honor.

10 THE COURT: All right. Let the defendant come up.

11 (Parties complying.)

12 THE COURT: Mr. Patterson, I thought I was having a
13 Kafkaesque moment this morning when I read the paper; you'd
14 already entered a plea of guilty. You know, that's like that
15 novel by Franz Kafka where this guy was charged, he was
16 convicted, and he was executed; and he never went before the
17 Court. It was like he was a, you know, surreal thing, so --
18 but you haven't been before the Court on a guilty plea, have
19 you?

20 THE DEFENDANT: No, sir. The press stays ahead of me
21 all the time.

22 THE COURT: All right. And is it your desire to
23 enter a plea of guilty this morning?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Before accepting your plea,

1 there are a number of questions I'm going to ask you to be sure
2 you understand what you're doing, what the consequences of what
3 you're doing are, and that you're voluntarily doing this. Is
4 your full name Steven A. Patterson?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. And will the court clerk
7 please swear the defendant.

8 THE CLERK: (Oath administered.)

9 THE DEFENDANT: I do.

10 THE COURT: All right. Mr. Patterson, do you
11 understand now that you're under oath and any answers to these
12 questions are subject to the penalties of perjury if you do not
13 answer them truthfully?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. What is your age,
16 Mr. Patterson?

17 THE DEFENDANT: Fifty-six.

18 THE COURT: And what education do you have?

19 THE DEFENDANT: I have a master's degree and have
20 completed all but dissertation for a Ph.D.

21 THE COURT: All right. In what subjects?

22 THE DEFENDANT: Political science and history.

23 THE COURT: All right. Are you presently under the
24 influence of any drugs, medicines, or alcohol?

25 THE DEFENDANT: No, sir.

1 **THE COURT:** You think you fully understand what is
2 happening here today?

3 **THE DEFENDANT:** Yes, sir.

4 **THE COURT:** Mr. Michael, do you have any question
5 about your client's ability and competence to enter a plea of
6 guilty?

7 **MR. MICHAEL:** No, sir.

8 **THE COURT:** All right. Mr. Norman, do you?

9 **MR. NORMAN:** No, I do not, Your Honor. Thank you.

10 **THE COURT:** All right. The Court finds that this
11 defendant is competent to enter a plea. Mr. Patterson, have
12 you had an ample opportunity to discuss this case with your
13 attorney?

14 **THE DEFENDANT:** Yes, sir.

15 **THE COURT:** Are you satisfied with his representation
16 of you?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** Do you believe that he has competently
19 represented your best interests in this case?

20 **THE DEFENDANT:** I do.

21 **THE COURT:** All right. Now, you've been working for
22 some attorneys for quite some time, and I know that you
23 probably already are aware of these questions I'm about to ask
24 you. But as far as this record is concerned, it must be a
25 matter of the public record. Do you understand that under the

1 Constitution and laws of the United States you're entitled to a
2 trial by jury on this charge?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And do you understand that if you wish to
5 have a trial you would be presumed innocent of this charge, and
6 the Government would be required to prove you guilty beyond a
7 reasonable doubt before you could be found guilty? Are you
8 aware of that?

9 THE DEFENDANT: I am.

10 THE COURT: Do you understand that in the course of
11 the trial the witnesses for the Government would have to come
12 into court and testify in your presence; that your attorney
13 could cross-examine the witnesses for the Government; he could
14 object to evidence offered by the Government; and he could also
15 call other witnesses to testify in your behalf? Are you aware
16 of that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Now, if you plead -- well, let me ask you
19 one other question before we get to that. Are you aware that
20 if you wanted to testify in your own defense you would have
21 that right to do so, but if you chose not to testify that no
22 inference or suggestion of guilt would be drawn if you chose
23 not to testify?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now, if you plead guilty today and I

1 accept your plea, do you understand that you're going to waive
2 your right to a trial; there will be no trial; you'll waive
3 these other rights that I've just discussed with you; and I'm
4 going to enter a judgment of guilty and sentence you on the
5 basis of your guilty plea here this morning? Are you aware of
6 that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Also, do you understand that
9 if you plead guilty here today you're going to waive your right
10 not to incriminate yourself since you may be asked questions
11 about what you did in order to satisfy me that you are guilty
12 as charged?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Having discussed these rights
15 with you, Mr. Patterson, and you understanding what rights
16 you're waiving, do you still want to go forward with this
17 guilty plea?

18 THE DEFENDANT: I do.

19 THE COURT: Have you received a copy of this
20 indictment?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. It charges you with being
23 part of a conspiracy, along with other people, to bribe a
24 public official, a state official. Are you aware that that's
25 what you're charged with?

1 **THE DEFENDANT:** Yes, sir.

2 **THE COURT:** And are you aware of what the maximum
3 penalty is that you could be sentenced to on a plea of guilty
4 to this charge?

5 **THE DEFENDANT:** I am.

6 **THE COURT:** What is that?

7 **THE DEFENDANT:** Five years, \$250,000 fine.

8 **THE COURT:** All right. Have you discussed with your
9 attorney any possible defenses that you may have to this
10 charge?

11 **THE DEFENDANT:** Yes, sir.

12 **THE COURT:** All right. Now, before you could be
13 found guilty of this charge, if you wished to go to trial --
14 this is a charge under Title 18 of the United States Code,
15 Section 371 and 666 -- the Government would have to prove each
16 of the following elements beyond a reasonable doubt: There are
17 three elements to this crime. First element is that you and at
18 least one other person came to an agreement to commit the crime
19 of corruptly offering a thing of value to a person with the
20 intent to influence or reward an agent of a state or local
21 Government in connection with the business of that governmental
22 agency and said corrupt offer involved something of a value of
23 more than \$5,000 at a time when the local Government or agency
24 received benefits from the federal government in excess of
25 \$10,000 in a one-year period.

1 And that you, in this agreement, devised a scheme to
2 defraud and to deprive the state of Mississippi of its
3 intangible rights to honest services from its officials. They
4 would have to prove that beyond a reasonable doubt.

5 Secondly, the Government would have to prove that you knew
6 that this agreement was unlawful and you joined it willfully
7 and with the intent to further the unlawful purpose of the
8 agreement. And thirdly, they would have to prove that during
9 the existence of this conspiracy you or at least one of the
10 coconspirators committed at least one of the overt acts
11 described in the indictment in order to carry out the purpose
12 of the conspiracy.

13 The Government would have to prove all of those things
14 beyond a reasonable doubt, Mr. Patterson. Do you understand
15 that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you think you fully understand this
18 charge?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you have any questions at all about
21 it?

22 THE DEFENDANT: Could I address the Court?

23 THE COURT: Yes, sir.

24 THE DEFENDANT: If I could just have the Court's
25 indulgence for just one moment and tell you that I stand here

1 as a very blessed man, Judge. My family, my church, my
2 community have stood by me through this ordeal. I never set
3 out to corruptly bribe a judge. I never set out in my
4 initial -- when this thing started, to do anything of that
5 nature.

6 My attorneys and the Government's attorneys have allowed
7 me and have instructed me that, in fact, at the point at which
8 I joined this alleged conspiracy, that I was in fact, then, at
9 that point, a conspirator.

10 But in -- I feel that it's important that I say that it's
11 very -- from the outset, there was no intent on my part to ever
12 corruptly influence anyone. However, I do understand that once
13 I joined it and once the cat was out of the bag that I became a
14 coconspirator; and that's the reason I'm entering this plea.

15 **THE COURT:** All right. Well, my question on it to
16 you at this time is, Do you understand that the Government
17 would have to prove each of these elements that I just
18 described before you can be found guilty?

19 **THE DEFENDANT:** I do understand.

20 **THE COURT:** All right. Now, we'll get into this
21 other matter later in this hearing. You understand the maximum
22 possible penalty under this count is five years' imprisonment
23 plus a fine of \$250,000 and, also, a certain period of time
24 under supervised release after imprisonment? Are you aware of
25 that?

1 **THE DEFENDANT:** Yes, sir.

2 **THE COURT:** All right. Has anyone threatened you or
3 forced you to plead guilty to this charge?

4 **THE DEFENDANT:** No, sir.

5 **THE COURT:** All right. I understand there has been a
6 plea agreement entered into between the defendant and the
7 Government.

8 Mr. Norman, would you state, briefly as you can, the
9 substance of that plea agreement?

10 Mr. Patterson, you listen to him; and I want to ask you,
11 then, if you agree with it.

12 **THE DEFENDANT:** (Nodding head affirmatively.)

13 **MR. NORMAN:** Yes, Your Honor. By the terms of the
14 plea agreement, Mr. Patterson agreed to plead guilty to Count 1
15 of the indictment charging him with conspiring with others to
16 corruptly influence or bribe a state-elected official. He has
17 agreed to cooperate with the United States Attorney's Office
18 and with agents of the FBI.

19 We have agreed that in the event his cooperation rises to
20 the level of substantial assistance that we will ask the Court
21 to consider a downward departure from the applicable guidelines
22 in this case. Mr. Patterson must understand that the decision
23 of whether or not to move the Court for such a departure is
24 ours.

25 Ultimately, the decision of whether or not to depart is

1 the Court's and the Court's alone. And we have explained that
2 to Mr. Patterson, but I feel it necessary to say that once
3 again on the record.

4 We have agreed to take the position that he is a minor
5 participant as compared with other defendants in this case.
6 That would, as the Court knows, under the guidelines, result in
7 a two-point reduction from the applicable guideline range.
8 Once again, Mr. Patterson must understand that that is our
9 recommendation. It's not an attempt to bind the Court in any
10 way; and ultimately, the Court has that discretion and the
11 Court alone. I know the Court knows that; but with the Court's
12 indulgence, I'm saying that for Mr. Patterson's benefit.

13 He has agreed to take a polygraph. He has agreed to
14 testify if we ask him to do so. We have agreed not to pursue
15 any other or greater charges against him in connection with
16 this case. There is no agreement as to sentence, the sentence
17 to be imposed. And both sides understand that that remains
18 within the sound discretion of the Court. He knows that he
19 must pay a \$100 special assessment; and I must remind him that
20 this plea agreement binds no other authority, other than the
21 United States Attorney's Office for the Northern District of
22 Mississippi. I will, however, say for the record that I do not
23 know of any other jurisdiction interested in prosecuting him.

24 Mr. Patterson agrees that he is pleading guilty because he
25 is in fact guilty. And that is, Your Honor, in summary, the

1 agreement between the parties, sir.

2 THE COURT: All right. Steven Patterson, you've
3 heard the prosecutor state his understanding of what the
4 agreement is between you and the Government. Did he accurately
5 state it as you understand it to be?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Is there anything he said that you
8 disagree with?

9 THE DEFENDANT: No, sir.

10 THE COURT: Has anyone made any promise to you in
11 addition to this plea agreement to cause you to plead guilty?

12 THE DEFENDANT: (Indicating.)

13 THE COURT: Anyone made any promise to you in
14 addition to this plea agreement to cause you to plead guilty?

15 THE DEFENDANT: No, sir.

16 THE COURT: Has anyone made any prediction or promise
17 what your sentence would be?

18 THE DEFENDANT: No, sir.

19 THE COURT: Did you, as charged in Count 1 of this
20 indictment, enter into a conspiracy to bribe a state judge as
21 charged?

22 THE DEFENDANT: Judge, as I stated earlier, I have
23 been explained by my lawyer and the Government's lawyers that I
24 did. That was not my understanding at the time.

25 THE COURT: Well, the charge says that you

1 "willfully."

2 THE DEFENDANT: Right.

3 THE COURT: That means that you knowingly and
4 intentionally went in to this -- to join this conspiracy. Did
5 you or did you not?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Mr. Norman, what, in summary,
8 could the Government produce as far as evidence against
9 Mr. Patterson in a trial?

10 MR. NORMAN: May it please the Court, were this case
11 to go to trial, the Government would expect to prove by
12 judicial notice, the presentation of documentary evidence, and
13 tape recordings and the factual testimony of lay witnesses that
14 between March of 2007 and November 2007 in the Northern
15 District of Mississippi Timothy R. Balducci, Richard F.
16 "Dickie" Scruggs, David Zachary Scruggs, Sidney A. Backstrom,
17 and Steven A. Patterson conspired to bribe a state circuit
18 court judge.

19 The evidence would show that Steven A. Patterson and
20 Timothy R. Balducci were shareholders in the law firm of
21 Patterson Balducci, PLLC. The evidence would also show that in
22 March 2007 a lawsuit was filed in the circuit court of
23 Lafayette County, Mississippi, styled *Jones, et al. v. Scruggs,*
24 *et al.*, that being Civil Action No. L07-135.

25 Patterson and Balducci had previously performed legal work

1 for the Scruggs Law Firm, but they were not parties to the suit
2 nor did they represent any of the litigants in that case. The
3 case was assigned to State Circuit Judge Henry Lackey. And the
4 defendant, Richard F. "Dickie" Scruggs, and the Scruggs Law
5 Firm were named as defendants in that \$26.5 million lawsuit.

6 In approximately March 2007, the named coconspirators
7 discussed ways and means of attempting to influence Circuit
8 Judge Henry Lackey. Knowing that Timothy R. Balducci and Judge
9 Lackey had been friends for many years, Richard "Dickie"
10 Scruggs asked Balducci to explore the possibility of
11 influencing the judge.

12 Mr. Balducci thereafter met with Judge Lackey and
13 explained to the judge that he would consider it a personal
14 favor if the judge could resolve the lawsuit in favor of Dickie
15 Scruggs and the Scruggs Law Firm. During the same
16 conversation, Balducci expressed the desire to have Judge
17 Lackey become "of counsel" with his and Steven A. Patterson's
18 law firm upon his retirement. "Of counsel" being a position
19 which would result in Judge Lackey being paid by the firm
20 simply to allow the use of his name on the firm's letterhead.

21 On September 21st, 2007, Judge Lackey tested the
22 coconspirators' intent by asking for \$40,000 in cash in
23 exchange for an order favorable to the Scruggs Law Firm.
24 Immediately after meeting with Judge Lackey and agreeing on the
25 \$40,000 figure, Balducci placed a four-minute phone call to the

1 Scruggs Law Firm and asked Sidney Backstrom if the Scruggs Law
2 Firm would cover a \$40,000 expenditure by Patterson Balducci,
3 PLLC.

4 On September 27th, 2007, Timothy Balducci delivered a
5 first installment, consisting of Patterson Balducci, PLLC's
6 \$20,000 to Circuit Judge Henry Lackey. On September 28th,
7 2007, Steven A. Patterson and Timothy R. Balducci spoke by
8 telephone; and unbeknownst to either, the call was being
9 recorded pursuant to Court order.

10 Patterson told Balducci that his wife had just gotten off
11 the phone with "P.L." -- that being known to the Government as
12 P.L. Blake -- who had just gotten out of the meeting that
13 Patterson had asked him to have. Balducci asked Patterson to
14 call P.L. for details. Patterson called back and related to
15 Balducci that P.L. had in fact met with Dick Scruggs, and "he"
16 knows it's going to be "40." Patterson assured Balducci that
17 P.L. was confident that Scruggs would take care of Patterson
18 and Balducci. "We got your horse sold" or words to that
19 effect.

20 On October 7th, 2007, Timothy Balducci called Steven A.
21 Patterson at approximately 5:48 p.m. Patterson told Balducci
22 that he had just talked to P.L., and that he -- Steve
23 Patterson -- would be calling "the guy in Oxford tomorrow."
24 Patterson assured Balducci that "the guy in Oxford" was
25 expecting a call. And on the following day, October 8th, at

1 approximately 8:17 a.m., Balducci called Patterson. Patterson
2 indicated that he was about to call Scruggs.

3 In a second telephone conversation that same date, Timothy
4 Balducci and Steven Patterson discussed the firm's financial
5 problems; and Patterson reassured Balducci that, "We've got 40
6 coming from Scruggs" or words to that effect.

7 On October 10th, 2007, at approximately 8:55 a.m., Steven
8 Patterson called Timothy Balducci and informed Balducci that he
9 needed to find out when "that order" was going to be signed.
10 Patterson stated that P.L. needed to know.

11 Timothy Balducci is expected to testify that on
12 approximately the 16th of October, 2007, Timothy Balducci and
13 Steven Patterson were in Oxford to meet with Richard "Dickie"
14 Scruggs on other matters. When they entered the office,
15 Richard "Dickie" Scruggs stated, "I know y'all have talked to
16 P.L., and I've talked to P.L. Everything's fine. Y'all are
17 going to be covered," or words to that effect. Patterson and
18 Balducci assured Scruggs that they were there for other
19 reasons.

20 Later that day, after leaving the Scruggs Law Firm,
21 Patterson and Balducci went their separate ways. However, at
22 approximately 7:30 p.m., Timothy Balducci called Steve
23 Patterson and told Patterson that he had just spoken with the
24 judge and that the order would be available the next day. It
25 was actually two days later, on October the 18th, when Timothy

1 Balducci met with Circuit Judge Henry Lackey, paid him an
2 additional \$10,000; and picked up a proposed order from Judge
3 Lackey.

4 In the meantime, a Court-authorized intercept picked up a
5 phone call from Richard "Dickie" Scruggs to Steven Patterson at
6 Patterson's residence. Scruggs was inquiring about the
7 whereabouts of Balducci and the order. Patterson assured
8 Scruggs that Balducci had gone "south" -- meaning to Judge
9 Lackey's chambers in Calhoun County -- but would hand-carry the
10 order to Oxford. Scruggs told Patterson to have Balducci put
11 it on his desk and pick up a package which was ready.

12 Balducci was surveilled entering the Scruggs Law Firm and
13 leaving Judge Lackey's chambers. Balducci left the order and
14 picked up a check for \$40,000, together with documents designed
15 to conceal the true nature of the payment. On November 1st,
16 2007, Timothy Balducci made the final payment of 10,000 to
17 Judge Henry Lackey.

18 And finally, the Government would show that the
19 above-described criminal activities took place in the Northern
20 Judicial District of Mississippi, and that the Lafayette County
21 Circuit Court is a state or local governmental agency which
22 received in the applicable one-year period benefits in excess
23 of \$10,000 under a federal program. Your Honor, in brief
24 summary, that is the evidence that would apply to this
25 defendant, Steven Patterson.

1 **THE COURT:** Very well. Mr. Patterson, did you do
2 everything that Mr. Norman described you as having done?

3 **THE DEFENDANT:** Some of what he read, I don't have
4 any way of knowing whether it happened or not, like the e-mails
5 between parties that didn't affect me.

6 **THE COURT:** No. My question is, Did you do what he
7 just described that you did?

8 **THE DEFENDANT:** Yes, sir.

9 **THE COURT:** You did do that?

10 **THE DEFENDANT:** Yes, sir.

11 **THE COURT:** The Court finds there is a factual basis
12 for this defendant to plead guilty to this charge. Now,
13 Mr. Patterson, you understand that this plea agreement that you
14 entered into with the Government is not binding on the Court;
15 and, that is, that as far as your being determined -- when the
16 Court computes the sentencing guidelines, that you may or may
17 not be found to be a minor participant; that that would be up
18 to the probation officers who look at the evidence and decide
19 what the sentencing guidelines call for? Are you aware of
20 that?

21 **THE DEFENDANT:** Yes, sir.

22 **THE COURT:** All right. And you're also aware that
23 the sentencing guidelines are no longer binding on the Court,
24 they are advisory?

25 **THE DEFENDANT:** Yes, sir.

1 **THE COURT:** Very well, with that understanding, do
2 you plead guilty or not guilty to Count 1 of this indictment?

3 **THE DEFENDANT:** Guilty, Your Honor.

4 **THE COURT:** All right. Since you are telling me that
5 you are guilty; you know what your right is to a trial; you
6 know what the maximum possible punishment is; and the Court's
7 finding you're voluntarily pleading guilty; the Court will
8 accept your guilty plea and enter a judgment of guilty on your
9 plea.

10 All right, Mr. Patterson, are you under bond at this time?

11 **THE DEFENDANT:** Yes, sir.

12 **THE COURT:** All right. If you're allowed to stay
13 under that same bond, do you agree to be back before the Court
14 at such times as the Court may direct?

15 **THE DEFENDANT:** Yes, sir.

16 **THE COURT:** All right. Now, I'll allow you to remain
17 under that bond; and you will be excused until such time as
18 you're notified to be back for sentencing. I will tell you
19 that your cooperation with the Government will certainly be a
20 factor that the Court will consider and the extent of your
21 cooperation will be a factor the Court will consider in
22 determining what sentence would be proper in your case, not
23 only in this particular case but any information you provide on
24 any other case, if you know any. And the Court will take that
25 into consideration. Is there anything else before we recess?

1 MR. NORMAN: Not from the Government, Your Honor.

2 THE COURT: Anything from the defendants?

3 MR. MICHAEL: No, sir, Your Honor.

4 THE COURT: All right. With that understanding,
5 you'll be allowed to remain on your same bond. Be back before
6 the Court at such future time as the Court directs.

7 THE DEFENDANT: Thank you, sir.

8 MR. MICHAEL: Thank you, sir.

9 MR. NORMAN: Thank you, sir. May we be excused, Your
10 Honor?

11 THE COURT: All right. Court will be in recessed.

12 (THE PLEA ENDED AT 10:23 a.m.)

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, Rita Davis Sisk, RPR, BCR, CSR #1626, Official Court Reporter for the United States District Court, Northern District of Mississippi, was present in court during the foregoing matter and reported said proceedings stenographically.

I further certify that thereafter, I, Rita Davis Sisk, RPR, BCR, CSR #1626, have caused said stenographic notes to be transcribed via computer, and that the foregoing pages are a true and accurate transcription to the best of my ability.

Witness my hand, this ____ day of _____, 2008.

RITA DAVIS SISK, RPR, BCR, CSR #1626
Official Court Reporter