

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF MISSISSIPPI

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4 GRAND JURY 11-06

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6  
7 IN RE: DICKIE SCRUGGS, ET AL.

8  
9 TRANSCRIPT OF TESTIMONY  
10 OF  
11 WILLIAM DELANEY

12  
13 The following proceedings were had before the  
14 United States Grand Jury for the Northern District of  
Mississippi on November 28, 2007.

15 APPEARANCES:  
16 TOM DAWSON, ESQ.  
17 ROBERT NORMAN, ESQ.  
DAVID SANDERS, ESQ.  
Assistant United States Attorney

18  
19 ALPHA REPORTING CORPORATION  
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24

1 PROCEEDINGS

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3 WILLIAM DELANEY,

4 Called as a witness, having been first duly

5 sworn by the Foreperson of the Grand Jury, was examined

6 and testified as follows:

7 MR. FOREMAN: Please state your full name and

8 spell your last name.

9 THE WITNESS: William P. Delaney,

10 D-E-L-A-N-E-Y.

11 EXAMINATION

12 BY MR. DAWSON:

13 Q. Mr. Delaney, you're a special agent with the

14 Federal Bureau of Investigation?

15 A. Yes, I am.

16 Q. And how long have you been so employed?

17 A. Twelve years.

18 Q. And would it be fair to say that with respect to

19 this investigation concerning the attempted bribery of

20 a certain judge Henry L. Lackey by a number of people

21 in a conspiracy, were you the case agent with respect

22 to that investigation?

23 A. Yes, I am.

24 Q. I want you to sort of start at the beginning and

1 tell how you got involved in this particular

2 investigation and what you did with respect to

3 discussing and dealing with the cooperation of Judge

4 Lackey.

5 A. I believe it was back in April of this year. I

6 was informed by my supervisor at the time that there

7 was a matter pending in the northern district of

8 Mississippi, and I needed to go speak with Tom Dawson

9 and John Hailman of the U.S. Attorney's Office in

10 Oxford regarding this matter. So I made an appointment

11 and spoke with them. And they relayed to me that Judge

12 Lackey had confided in him that Tim Balducci had

13 approached him a little while earlier and had made some

14 inappropriate overtures to him regarding a civil case

15 with the Scruggs Law Firm. And that the judge wanted

16 to report that matter to the U.S. Attorney's Office.

17 I followed that up by contacting Judge

18 Lackey and setting up an initial interview with the

19 judge. I believe that was probably late April, early

20 May. He relayed to me his conversation that he had  
21 with Tim Balducci. He gave me a signed statement,  
22 synopsis that conversation with him. The judge at the  
23 end of the conversation agreed to cooperate in the  
24 investigation in any way possible.

1 Q. Did that include acting in an undercover  
2 capacity?

3 A. Yes, sir.

4 Q. And did it also include his consent to have his  
5 chambers in Calhoun City wired for sound, so to speak  
6 and also videoed?

7 A. Yes. He signed both a waiver to make a consent  
8 for recordings at our request, which he did throughout  
9 the time of our investigation.

10 Q. Now, did Judge Lackey relate to you what  
11 Mr. Balducci had told him in that initial March 28th  
12 meeting with Judge Lackey?

13 A. I'm sorry? Say that again.

14 Q. Did Judge Lackey relate to you his conversation  
15 with Tim Balducci, the initial conversation which took  
16 place on March 28th?

17 A. Yes, he did.

18 Q. And in that conversation was it Judge Lackey's  
19 opinion or his feelings that Mr. Balducci was acting on  
20 behalf of Mr. Scruggs and others?

21 A. Yes. That's what he indicated to me that was  
22 what he believed was Tim Balducci was acting on the  
23 Scruggs Law Firm's behalf.

24 Q. Now, after that initial meeting with Judge

1 Lackey, did he have telephone conversations and  
2 meetings with Mr. Balducci throughout the summer and  
3 into the fall of 2007?

4 A. Yes, he did. He had regular contact with  
5 Mr. Balducci. Some in his office, some over the  
6 telephone, some in courthouses while he made his rounds  
7 throughout the state.

8 Q. And would it be fair to say that these  
9 conversations further were leading up to the -- what we  
10 now know was the attempted bribery for \$40,000 of Judge  
11 Lackey?

12 A. Some were. Some were just completely casual in  
13 nature and no relationship to the investigation. But  
14 some certainly did.

15 Q. Now, specifically in one of the telephone

16 conversations on May the 3rd did Judge Lackey receive a  
17 call or have a telephone conversation with Mr. Balducci  
18 where Balducci indicated that they -- that is, his  
19 people he was working with -- wanted to change the  
20 strategy of getting a partial dismissal of the  
21 allegations in the lawsuit and in sending the rest of  
22 it to arbitration? Do you remember that telephone  
23 call?

24 A. Yes.

1 Q. And after that telephone call on May the 4th do  
2 you know whether or not Judge Lackey received a fax  
3 from Mr. Balducci of a proposed order sending the case  
4 to arbitration?

5 A. He did. He received a fax from the Patterson  
6 Balducci Law Firm. The header at the top was Proposed  
7 Order.

8 Q. Just for the record this is Government's Exhibit  
9 2 to Judge Lackey's testimony. Does that appear to be  
10 the fax that Judge Lackey received?

11 A. Yes, sir, it does.

12 Q. Now, later on in the investigation did you  
13 determine how that fax came to be from -- in other

14 words did Mr. Balducci tell you how that fax came to  
15 be?

16 A. Yes, he did.

17 Q. Would you tell us how it came to be?

18 A. Mr. Balducci informed me that prior to him  
19 faxing this order down to Judge Lackey he received an  
20 email from Sid Baxtrum at the Scruggs Law Firm. The  
21 email contained the contents of this order. When Tim  
22 Balducci receive that email he took the contents of the  
23 email and recreated in his own document a copy of this  
24 document which he then faxed down to Judge Lackey. I

1 do believe he called Judge Lackey prior to sending the  
2 fax informing him that he was sending him something  
3 that he wanted the judge to look at.

4 Q. Now, the relationship or the contact between  
5 Mr. Balducci and Judge Lackey continued up until  
6 September the 21st. Do you recall if anything happened  
7 with respect to an agreement for a cash payment that  
8 happened on September 21st?

9 A. September 21st Tim Balducci came down and met  
10 with Judge Lackey in Judge Lackey's office in Calhoun  
11 City. The meeting was actually set up by both on the

12 day or maybe two days prior. We knew Mr. Balducci was  
13 coming down, so we arranged to have the judge's office  
14 wired for sound for audio and video surveillance of  
15 that meeting.

16 Mr. Balducci showed up. They discussed many  
17 things, but at the end they talked about this  
18 particular civil case. And Judge Lackey asked  
19 Mr. Balducci that if the judge was willing to do what  
20 the Scruggs Law Firm had asked him to do through Tim  
21 Balducci, what would the Scruggs Law Firm be willing to  
22 do for him in return. And Mr. Balducci asked him if he  
23 had anything specific in mind, and I believe the judge  
24 replied would they be willing to pay him \$40,000 if he

1 would send the case to arbitration.

2 Q. And did Mr. Balducci agree to that?

3 A. He thought it would not be a problem, but he

4 said he would need to get back with the judge on that.



6 judge's office in Calhoun City.

7 Q. And what took place at that meeting?

8 A. That meeting was also recorded by audio.

9 Mr. Balducci showed up at Calhoun City early in the  
10 morning. He had with him an Order similar to this one  
11 only it was briefer. It had that in an envelope. And  
12 he also had \$20,000 in cash in 100-dollar denominations  
13 in another envelope. He went in and met with the  
14 judge. And again they had conversations about many  
15 different things.

16 But at the end he gave the money to the  
17 judge, which the judge then placed in a safe behind his  
18 office. And he also handed the judge the envelope  
19 containing the Order which the judge ultimately looked  
20 at. And they discussed just basically what the Scruggs  
21 Law Firm wants his Order to read.

22 Q. Now, after this meeting took place did the FBI  
23 take custody of the \$20,000 in the envelope as well as  
24 the envelope that was delivered by Mr. Baluducci?

1 A. Yes, we did.

2 Q. And again on October the 18th and November the  
3 1st were there similar meetings where \$10,000

4 representing the last of the \$40,000 agreed upon  
5 payment were made? One, 10,000 on October the 18th and  
6 10,000 on November the 1st?

7 A. Yes. The only difference being on October 18th  
8 and November 1st rather than Mr. Balducci bringing an  
9 Order, Mr. Balducci picked up an Order signed by the  
10 judge on those two occasions.

11 Q. Now, after the -- on October the 18th was there  
12 a physical surveillance team that followed Mr. Balducci  
13 when he left the office of Judge Lackey?

14 A. There was a surveillance in place from what I  
15 recall. Mr. Balducci had been driving a red Ford  
16 pickup truck to all the meetings previously. On this  
17 occasion he drove a different car, a black Lincoln  
18 which he had switched in New Albany. So our  
19 surveillance team lost him. We obviously picked him up  
20 when he showed up at the judge's office. Unfortunately  
21 they could not get there in time to pick him up.

22 We directed the surveillance people to go to  
23 Oxford. So as I recall there was nobody that  
24 surveilled him from Calhoun City up to Oxford, but we

1 did have surveillance units in place in Oxford outside

2 the Scruggs Law Firm. And we do have surveillance of  
3 him showing up at the law firm and entering the law  
4 firm shortly after leaving the judge's office.

5 Q. Now, on November the 1st when the last  
6 10,000-dollar payment was made by Mr. Balducci to Judge  
7 Lackey, did any change in the direction of the  
8 investigation take place immediately after that  
9 meeting?

10 A. Yes. As Mr. Balducci was leaving the judge's  
11 office myself and another agent, Special Agent Jim  
12 Seros (spelled phonetically) approached Mr. Balducci as  
13 he exited the office and requested to speak with him  
14 regarding this matter. He agreed. He spoke with us.  
15 We played for him a tape of one of the meetings that he  
16 had with the judge where bribe payments were made as to  
17 the investigation. And after discussing it with  
18 members of the United States Attorney's Office he  
19 agreed to go ahead and cooperate.

20 Q. And did he indeed cooperate that day by agreeing  
21 to wear a consensual wire into the Scruggs Law Firm and  
22 talk to other members of the conspiracy?

23 A. Yes, he did.

24 Q. And did he in fact talk with Zach Scruggs as

1 well as Sid Baxtrum initially when he entered the

2 office of the Scruggs Law Firm?

3 A. Yes, he did. And also to add, on that occasion

4 we had surveillance personnel in place that day also

5 which watched Mr. Balducci enter and leave the Scruggs

6 Law Firm.

7 Q. Now, was the conversation between Mr. Balducci

8 and Zach Scruggs and Sid Baxtrum recorded?

9 A. Yes, it was.

10 Q. Will you summarize for us what was said between

11 them concerning the Judge Lackey situation in the Jones

12 lawsuit they were interested in and what statements

13 were made to indicated knowledge and participation by

14 both Baxtrum and Zach Scruggs?

15 A. Mr. Balducci's conversation to Sid Baxtrum and

16 Zach Scruggs and later with Richard Scruggs was quite

17 lengthy. But regarding this matter here Tim Balducci

18 told them as you recall I brought you an Order back on

19 October 18th that the judge had signed. That Order was

20 not entered because the attorneys representing the

21 plaintiffs in this civil matter had filed some motions

22 shortly after the judge had written and signed that

23 order, and the judge felt like he needed to impress  
24 those files, which he did in a subsequent Order that he

1 wrote and handed to Mr. Balducci during their meeting  
2 on November 1st.

3 Tim Balducci had a copy of that last Order  
4 written by Judge Lackey with him when he went into the  
5 Scruggs Law Firm. He met first with Sid Baxtrum and  
6 then later Zach Scruggs came in. And the three of them  
7 discussed what had happened over the last week, the  
8 filings and everything, and why the Order hadn't been  
9 filed. And the judge had called Tim the day before and  
10 said look, some changes have come up. It's not going  
11 to change anything, but I just need you to come down  
12 here, and I need to discuss this with you in person,  
13 for him, Mr. Balducci, to go back to Judge Lackey on  
14 the 1st. Plus the fact that you still owe me \$10,000  
15 from your original agreement.

16 So that was the nature of the discussion  
17 between Tim Balducci, Zach Scruggs and Sid Baxtrum. He  
18 showed them this latest Order that he picked up on  
19 November 1st. Both Zach Scruggs and Sid Baxtrum looked  
20 over the Order. Tim specifically had them look at the

21 new paragraph that Judge Lackey had written into the  
22 latest order. They read it. They reviewed it.

23 Tim ended up telling them at the end, look,  
24 is this how you want the Order to read? You guys are

1 paying for it, so you might as well get it the way you  
2 like it. And they both agreed it was fine as it is.

3 Q. After Mr. Balducci talked with Zach Scruggs and  
4 Sid Baxtrum about this Order and that they had paid for  
5 it and get it like they wanted it, did he later have a  
6 one on one conversation with Richard, Dickie, Scruggs?

7 A. Yes, he did. He had a conversation similar to  
8 what he had with Sid Baxtrum and Zach Scruggs. He  
9 discussed what happened with the latest filings from  
10 the plaintiff's attorneys, why the judge needed to  
11 change, to amend the Order. And he had this Order in  
12 place and that he wanted to get Mr. Scruggs' approval,  
13 that the Order was good, that this was the Order they  
14 wanted filed.

15 And at the end of the conversation he asked  
16 Mr. Scruggs, he said, look, since the judge has had to  
17 do this additional work he feels a little more exposed  
18 on this since he had the full knowledge of the first

19 Order you wrote, rewrote a new Order. He feels a  
20 little more exposed. Would it be possible to do  
21 something for him, possibly pay him an additional  
22 \$10,000 for doing this second order.

23 Q. Did he say you need to give an extra 10 or  
24 something like that?

1 A. I believe that was the language.

2 Q. And did he then ask him do you want me to take  
3 care of that, or do you want to take care of it?

4 A. Yes, he did.

5 Q. And what was Mr. Scruggs' response?

6 A. He said he would take care of it, but he wanted  
7 some suggestions on how to do it.

8 Q. And what was the suggestion that Tim told him  
9 about how they were going to do this?

10 A. He said since he had already been paid the  
11 \$40,000 to do the voir dire Order on a Katrina related  
12 case in Jackson County, a civil case, he could just do  
13 the voir dire instructions on that same case --

14 Q. You mean jury instructions?

15 A. I'm sorry. Jury instructions.

16 Q. And then would Scruggs then give him the check

17 for \$10,000 appearing to hire him for the jury

18 instructions in that case, and then that would be a way

19 for Tim to have an extra \$10,000 to pay the judge?

20 A. Yes.