

Charles McGee Testimony RE: Darrell Henry
Excerpt from United States VS. James Tobin

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA *
 *
 v. * CR.04-216-01-SM
 * December 7, 2005
 JAMES TOBIN * 9:30 a.m.
 *

Day 2
Morning Session
TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE STEVEN J. McAULIFFE
and a jury

Appearances:

For the Government: Andrew Levchuk, Esq.
Lily N. Chinn, Esq.
U.S. Department of Justice
Criminal/Computer Crimes

Nicholas A. Marsh, Esq.
U.S. Department of Justice
Public Integrity Section

For the Defendant: Dane H. Butswinkas, Esq.
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Court Reporter: Diane M. Churas, CSR
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1 do so now.

2 MR. BUTSWINKAS: Your Honor, may I approach?

3 THE COURT: No need to. Do you object?

4 MR. BUTSWINKAS: Yes.

5 THE COURT: Sustained.

6 MR. LEVCHUK: In terms of Exhibit 4, I believe
7 that is in evidence, but I did not show that to the
8 jury. So I'm going to do that now and show the witness
9 the document. So if we can have Exhibit 4 on the
10 screen, the second page.

11 THE COURT: Four does not appear to be
12 admitted. Any objection to 4?

13 MR. BUTSWINKAS: No objection, your Honor.

14 THE COURT: ID may be stricken on Government's
15 4.

16 (Government's Exhibit 4 admitted.)

17 DIRECT EXAMINATION (cont'd)

18 BY MR. LEVCHUK:

19 Q. In particular, on the second page, Mr. McGee,
20 I direct your attention to the check from the New
21 Hampshire Republican State Committee. You had testified
22 about this yesterday, but I don't think we had it in
23 front of the jury, so I want to make sure we go over it.
24 Again, whose handwriting is that?

25 A. The pay-to-the-order portion in the memo

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1 portion is that of Kristy Stewart, an employee of the
2 state committee. The signature is a Mr. Dowd written by
3 myself with permission.

4 Q. Thank you very much. Sir, we left off
5 yesterday on Election Day eve. I'm now going to take
6 you forward, if we may, to Election Day morning,
7 November 5th, 2002. Describe the first thing that
8 happens that day. What do you do?

9 A. I woke early to go to the Concord polling
10 place where they have early voting. I think it starts
11 at 6 or 6:30. I live close by, and I was holding a sign
12 early in the morning for our republican candidates.

13 Q. Does there come a point when you hear
14 something from anyone about the phone jamming scheme?

15 A. During a portion of my time standing there,
16 Concord Republican City Committee Chairman Jeff Newman
17 came and joined me. We stood there for a few minutes
18 conversing with folks going in to vote, and I received a
19 phone call from John Dowd, who is the Republican Party
20 chairman, my boss, at which time Mr. Dowd instructed me
21 very quickly, very briefly, to put a halt to my plan, my
22 idea to jam the phone lines. I then traveled over to
23 the state party headquarters on Main Street only a few
24 short blocks away and began to, as quickly as I could,
25 reach Mr. Raymond to put an end to the phone call plan

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1 that I came up with.

2 Q. How did you try to reach Mr. Raymond?

3 A. By telephone. I believe I tried both his
4 office phone and his cell phone.

5 Q. Were you able to get in touch with him?

6 A. Eventually. Not as early as I had hoped.

7 Q. But at some point you conveyed the message;
8 did you not?

9 A. Yes. Very briefly I told him that the
10 chairman ordered it stopped, and I told him that he
11 needed to stop it. I didn't know what Mr. Raymond
12 needed to do to make that happen, but I know he wasn't
13 the only person making the phone calls or running the
14 computers. So it was a very brief conversation, stop
15 the calls, and we left it at that.

16 Q. Later on on Election Day, do you have a
17 discussion about the phone jamming scheme with anyone?

18 A. That day, later in the day, I traveled to our
19 Manchester Republican Office where I spoke to --
20 specifically about this; I recall speaking to a
21 gentleman by the name of Daryl Henry. Daryl was up from
22 Washington volunteering on the campaign. I mentioned to
23 him that the phone call plan had been called off and
24 that I was a bit upset about that, and he indicated in
25 some fashion that he knew about the plan going on and

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1 that he had called some associates of his to pick up
2 where we left off. I took it as bravado because I
3 didn't possibly know how he would have known about the
4 plan or who we were calling or how it had been stopped.
5 I just took it as he was trying to be a nice guy and
6 make me feel good.

7 Q. Who is Daryl Henry, sir?

8 A. He was up from Washington. As far as I know
9 he works for American Gas Association. I don't know
10 much more about him than that.

11 Q. What was he doing in New Hampshire, if you
12 know?

13 A. He was helping coordinate some of our VIP
14 visits, volunteering in general campaign fashion. The
15 time before an election is very, very, very busy for us,
16 as you know. We spent nine million dollars that year.

17 Q. Now, sir, is it fair to say you are a
18 defendant in a civil lawsuit that's pending in the
19 superior court for the State of New Hampshire?

20 A. I am.

21 Q. What's the subject of the lawsuit?

22 A. I'm being sued for this matter, the phone
23 jamming case.

24 Q. Events arising from this?

25 A. Yes.