IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-60807
Summary Calendar

PAUL WINFIELD,
Petitioner – Appellant
v.
UNITED STATES PROBATION & PRETRIAL SERVICES; CHIRS COUNT,
Respondents – Appellees

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 5:18-CV-11

[*The original is electronically stamped with the following:*]

FILED
June 24, 2020
Lyle W. Cayce
Clerk

Before CLEMENT, ELROD, and OLDHAM, Circuit Judges.

PER CURIAM:*

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*Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Paul Winfield, former federal prisoner # 17050-043, appeals the district court's dismissal of his 28 U.S.C. § 2241 petition in which he challenged his conviction for bribery concerning programs receiving federal funds, in violation of 18 U.S.C. § 666(a)(1)(B). The district court found that he did not satisfy the savings clause of 28 U.S.C. § 2255(e). We review the district court's factual findings for clear error and its legal conclusions de novo. *Christopher v. Miles*, 342 F.3d 378, 381 (5th Cir. 2003).

A prisoner may use § 2241 to challenge his conviction only if the remedy under § 2255 is inadequate or ineffective to contest the legality of his detention. § 2255(e). Winfield must establish the inadequacy or ineffectiveness of a § 2255 motion by satisfying the criteria of the savings clause of § 2255. *See* § 2255(e); *Jeffers v. Chandler*, 253 F.3d 827, 830 (5th Cir. 2001); *Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001). Under this circuit's existing precedent, Winfield can meet that criteria if he shows that his petition presents a claim based on a retroactively applicable Supreme Court decision that supports that he may have been convicted of a nonexistent offense and that the claim was foreclosed by circuit law when it should have been raised at trial, on direct appeal, or in his initial § 2255 motion. *See Reyes-Requena*, 243 F.3d at 904.

Winfield contests the legality of his conviction and argues that he can satisfy the *Reyes-Requena* criteria in light of the Supreme Court's decision in *McDonnell v. United States*, 136 S. Ct. 2355 (2016). He contends that even though the Court in *McDonnell* did not construe his statute of conviction, the decision—which he asserts is retroactively applicable—is apposite because it narrowed the conduct that qualified as bribery and set forth

principles for how guilt should be decided in prosecutions for federal bribery offenses. Winfield asserts that the holding of *McDonnell* indicates that § 666 is overbroad, that he was charged with, and convicted of, a nonexistent offense, and that his prosecution raised federalism concerns.

In *McDonnell*, the Court construed the definition of "official act" as used in 18 U.S.C. § 201(a)(3), and did not delimit, consider, or invalidate an element of § 666. *See* 136 S. Ct. at 2365-2375. The decision in *McDonnell* did not address § 666 and interpreted a component of a materially different crime. 136 S. Ct. at 2365-75. Moreover, a bribery offense under § 666 is not restricted to "official acts," as defined in § 201(a)(3) and interpreted by *McDonnell*, and broadly bars corruptly soliciting or accepting a thing of value in exchange for influence or reward in connection with any business, transaction, or series of transactions. § 666(a)(1)(B) & § 666(b); *see United States v. Whitfield*, 590 F.3d 325, 345-47 (5th Cir. 2009); *cf. Salinas v. United States*, 522 U.S. 52, 56-58 (1997) (describing expansive language of § 666 and rejecting arguments in favor of circumscribing text). Thus, there is no basis to conclude that the holding of *McDonnell* applies to the expansive language of § 666 that, by its plain text, covers more than "official acts." *See* § 666(a)(1)(B) & § 666(b).

Winfield has not shown that he was convicted of a nonexistent offense in light of *McDonnell*. Thus, regardless whether *McDonnell* applies retroactively, or his instant challenge to § 666 was previously foreclosed, he has not established that he can meet the *Reyes-Requena* requirements to proceed under the savings clause. 243 F.3d at 903-04; *see also Jeffers*, 253 F.3d at 830.

Accordingly, the judgment of the district court is AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

NO. 5:18-cv-11-KS-MTP

PAUL WINFIELD PETITIONER

v.

UNITED STATES PROBATION &
PRETRIAL SERVICES and CHRIS COUNTS
RESPONDENTS

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION AND DISMISSING CASE WITH PREJUDICE, ETC.

This cause is before the Court on Petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 [1] by Paul Winfield, the Report and Recommendation [12] of Magistrate Judge Micharl T. Parker, Petitioner's Objections [13] to Report and Recommendation, Response in Opposition [14] to Petitioner's Objection, and the records and pleadings herein and the Court does hereby find as follows to wit:

I. BACKGROUND

Petitioner Paul Winfield is the former mayor of Vicksburg, Mississippi. On March 19, 2013, Petitioner, while serving as mayor, was indicted for theft or bribery concerning programs receiving

federal funds in violation of 18 U.S.C. § 666(a)(1)(B).[1] Following a guilty plea, Petitioner was convicted of this crime in the United States District Court for the Southern District of Mississippi on or about November 19, 2013. *See United States v. Winfield*, 5:13-cv-5-DCB-FKB (S.D. Miss 2013). Petitioner was sentenced to a 25-month term of imprisonment and a three-year term of supervised release. *Id.* Petitioner completed his term of imprisonment.

On January 16, 2018, Petitioner, while serving his term of supervised release, filed the instant Petition [1], arguing that his conviction is no longer valid in light of the Supreme Court's holding in *McDonnell v. United States*, 136 S.Ct. 2355 (2016). On March 21, 2018, Respondent filed a Response [9], arguing that this Court does not have jurisdiction to consider this § 2241 habeas petition.

II. STANDARD OF REVIEW

When a party objects to a Report and Recommendation this Court is required to "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). *See also Longmire v. Gust*, 921 F.2d 620, 623 (5th Cir. 1991) (Party is "entitled to a *de novo* review by an Article III Judge as to those issues to which an objection is made.") Such review means that this

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[1] Pursuant to § 666(a)(1)(B), it is a crime if a state, local, or tribal official "corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more . . . ."

Court will examine the entire record and will make an independent assessment of the law. The Court is not required, however, to reiterate the findings and conclusions of the Magistrate Judge. *Koetting v. Thompson*, 995 F.2d 37, 40 (5th Cir. 1993) nor need it consider objections that are frivolous, conclusive or general in nature. *Battle v. United States Parole Commission*, 834 F.2d 419, 421 (5th Cir. 1997). No factual objection is raised when a petitioner merely reurges arguments contained in the original petition. *Edmond v. Collins*, 8 F.3d 290, 293 (5th Cir. 1993).

III. PETITIONER'S OBJECTIONS AND ANALYSIS

The Petitioner lodges three objections to the Report and Recommendation. They are as follows:

1. That the wrong standard of review was employed in determining whether a Supreme Court case was retroactively applicable and that Petitioner was required to prove that he was convicted of a non-existent offense.

2. That the Report and Recommendation does not contain any factual findings or factual analysis; and

3. That the Report and Recommendation is an overly restricted reading of the Supreme Court's analogous precedent.

Winfield has not established that he may have been convicted of a non-existent offense. *McDonnell v. United States*, 136 S.Ct. 2355 (2016) is not applicable. This case addressed an entirely different statute. Petitioner made no effort to establish that he was legally or factually innocent and the Court has reviewed the Presentence Report that was filed in the underlying criminal case, 5:13-cr-5-DCB-FKB. Petitioner made no objections to the facts set forth in the Presentence Report which was adopted by the

Court. The factual basis set forth in the Presentence Report clearly sets forth violations of the law. There was also a factual basis stated by the prosecutor at the guilty plea. The Court does not have access to the factual basis but suffice to say Judge Bramlette found that the Government had established a factual basis for the crime and the factual basis was agreed to by the Petitioner. Petitioner has the burden to establish actual innocence which has has failed to do and the Court finds that his first objection is WITHOUT MERIT.

The second objection is that the Report and Recommendation does not contain any factual findings which support the conclusion that Mr. Winfield failed to meet his burden to obtain habeas relief. The authority cited by Petitioner was *Santillana v. Upton*, 846 F.3d 779, 784 (5th Cir. 2017). In this case the facts were agreed to by the Petitioner as set forth in the Presentence Report, the factual basis agreed to by Petitioner and the findings of Judge Bramlette. There is no issue for this Court to make factual findings on. Everything was admitted to by the Petitioner and adopted by the Court. It is also telling that the Petitioner made very little effort to point any facts out to the Court and makes only bald assertions as to the applicable law and the obligation of the Magistrate Judge to make factual findings. The Court finds that this objection to the Report and Recommendation is without basis and is DENIED.

In the third objection Petitioner claims that the Report and Recommendation unduly restricts the reading of the Supreme Court's analogous precedent. Petitioner asks this Court to find that a Section 666 offense should be addressed as called for in *McDonnell*. The instant case is distinguishable from

McDonnell in that violations of the law were set forth in the Presentence Report, agreed to by Petitioner and found as facts by the Court. Petitioner has cited no authority to this Court that convinces it that a Section 666 offense to which Winfield pled guilty require a *McDonnell* type interpretation, and the Court finds that this objection is WITHOUT MERIT.

IV. CONCLUSION

As required by 28 U.S.C. §636(b)(1) this Court has conducted an independent review of the entire record and a *de novo* review of the matters raised by the objection. For the reasons set forth above, this Court concludes that Winfield's Objections lack merit and should be **overruled**. The Court further concludes that the proposed Report and Recommendation is an accurate statement of the facts and the correct analysis of the law in all regards. Therefore, the Court accepts, approves and adopts the Magistrate Judge's factual findings and legal conclusions contained in the Report and Recommendation.

Accordingly, it is ordered that United States Magistrate Judge Michael T. Parker's Report and Recommendation is accepted pursuant to 28 U.S.C. §636(b)(1) and that Paul Winfield's claim is DISMISSED WITH PREJUDICE. All other pending motions are DENIED AS MOOT.

SO ORDERED this the 25th day of October, 2018.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

NO. 5:18-cv-11-KS-MTP

PAUL WINFIELD PETITIONER

v.

UNITED STATES PROBATION &
PRETRIAL SERVICES and CHRIS COUNTS
RESPONDENTS

REPORT AND RECOMMENDATION

BEFORE THE COURT is the Petition of Paul Winfield for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Having considered the submissions of the parties and the applicable law, the undersigned recommends that the Petition [1] be DENIED.

BACKGROUND

Petitioner Paul Winfield is the former mayor of Vicksburg, Mississippi. On March 19, 2013, Petitioner, while serving as mayor, was indicted for theft or bribery concerning programs receiving federal funds in violation of 18 U.S.C. § 666(a)(1)(B).[1]

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[1]Pursuant to § 666(a)(1)(B), it is a crime if a state, local, or tribal official "corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transaction of such organization, government, or agency involving any thing of value of $5,000 or more . . . ."

Following a guilty plea, Petitioner was convicted of this crime in the United States District Court for the Southern District of Mississippi on or about November 19, 2013. *See United States v. Winfield*, 5:13-cv-5-DCB-FKB (S.D. Miss 2013). Petitioner was sentenced to a 25-month term of imprisonment and a three-year term of supervised release. *Id.* Petitioner completed his term of imprisonment. On January 16, 2018, Petitioner, while serving his term of supervised release, filed the instant Petition [1], arguing that his conviction is no longer valid in light of the Supreme Court's holding in *McDonnell v. United States*, 136 S.Ct. 2355 (2016). On March 21, 2018, Respondent filed a Response [9], arguing that this Court does not have jurisdiction to consider this § 2241 habeas petition.

ANALYSIS

The general rule is that a challenge to the validity of a conviction or sentence must be pursued in a motion filed pursuant to 28 U.S.C. § 2255. *See Pack v. Yusuff*, 218 F.3d 448, 451-52 (5th Cir. 2000); *Tolliver v. Dobre*, 211 F.3d 876, 877 (5th Cir. 2000). Petitioner, however, is proceeding under 28 U.S.C. § 2241, which is generally used to attack the manner in which a sentence is executed. *Id.*[2] There is a savings clause in § 2255 which acts as a limited exception to these general rules and allows a § 2241 petition under certain limited circumstances. This savings clause provides as follows:

> An applicant for a writ of habeas corpus in behalf of a prisoner who is authorized

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[2] Presumably, Petitioner did not proceed under § 2255 because such a motion may be time barred under § 2255(f)'s one-year limitations period. That issue, however, is not before this Court.

> to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced him, or that such court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

28 U.S.C. § 2255(e).

Thus, "a section 2241 petition that seeks to challenge a federal sentence or conviction—thereby effectively acting as a section 2255 motion—may only be entertained when the petitioner establishes that the remedy provided for under section 2255 is inadequate or ineffective." *Pack*, 218 F.3d at 452 (citations omitted). Petitioner bears the burden of establishing the inadequateness or ineffectiveness of the Section 2255 remedy. *Id.* To satisfy the requirements of the savings clause, Petitioner must demonstrate that (1) he raises a claim "that is based on a retroactively applicable Supreme Court decision," (2) the claim was previously "foreclosed by circuit law at the time when [it] should have been raised in petitioner's trial, appeal or first § 2255 motion," and (3) the retroactively applicable decision establishes that "the petitioner may have been convicted of a nonexistent offense" or, in other words, the petitioner may be actually innocent. *Reyes-Requena v. United States*, 243 F.2d 893, 904 (5th Cir. 2001).

Petitioner argues that the Supreme Court's holding in *McDonnell v. United States*, 136 S.Ct. 2355 (2016) establishes that he was convicted of a nonexistent offense, that the United States employed

an overbroad reading of Section 666, and that the United States breached the boundaries of federalism. Respondent argues that Petitioner has not met the requirements of the savings clause because he has failed to demonstrate that he was convicted of a nonexistent offense based on a retroactively applicable Supreme Court decision. Specifically, Respondent argues that Petitioner's reliance on *McDonnell* is misplaced as *McDonnell* does not apply to Petitioner's conviction under 18 U.S.C. § 666(a)(1)(B). The undersigned agrees.

In *McDonnell*, the Supreme Court considered the proper interpretation of an "official act" under the federal bribery statute, 18 U.S.C. § 201(a)(3). In that case, the United States indicted former Virginia Governor Robert McDonnell and his wife on bribery charges, including honest services wire fraud under 18 U.S.C. § 1343 and Hobbs Act extortion. *McDonnell*, 136 S.Ct. at 2365. The parties agreed that in the jury instructions they would define these crimes with reference to § 201 and its definition of "official act." *Id.* The Supreme Court held that the jury instructions defined "official act" too broadly, and the Supreme Court adopted a "more bounded interpretation of 'official act.'" *Id.* at 2368, 2375. Thus, the Supreme Court vacated McDonnell's convictions and remanded the case for further proceedings consistent with the opinion. *Id.* at 2375.

In the case *sub judice*, Petitioner was convicted under 18 U.S.C. § 666, a statute which was not at issue in *McDonnell*. Acknowledging that § 666 was not specifically at issue in *McDonnell*, Petitioner argues that *McDonnell* "represents a sea change in federal public corruption prosecutions, and sets forth broad principles and concerns that touch on the 'criterion of guilt' in such cases." *See* Reply [11] at 1.

At least one district court within this circuit has addressed whether *McDonnell* represents a retroactively applicable Supreme Court decision establishing that a conviction under § 666 may be a conviction of a "nonexistent offense." In *Montemayor v. Warden, FCC Beaumont*, the court held as follows:

> [I]n *McDonnell*, the Supreme Court interpreted the term "official act," an element of the offense under 18 U.S.C. § 201(b). However, an official act is not an element of the offense under 18 U.S.C. § 666. Moreover, petitioner has failed to show *McDonnell* has been made retroactively applicable to cases on collateral review. *See In re Lott*, 838 F.3d 522, 523 (5th Cir. 2016) (denying leave to file successive § 2255 because defendant failed to show *McDonnell* set forth new rule of constitutional law made retroactive to cases on collateral review).

2017 WL 9480871, at *2 (E.D. Tex. April 25, 2017), report and recommendation adopted, 2018 WL 2411780 (E.D. Tex. May 29, 2018).

Other courts have declined to extend the holding in *McDonnell* to statutes beyond § 201. "Although the statues in *McDonnell* and here both involve bribery, we see no reason for transplanting the conclusions in *McDonnell* that stem solely from the Court's application of general statutory-construction principles to the particular statute at issue in that case." *United States v. Ferriero*, 866 F.3d 107, 128 (3rd Cir. 2017). Moreover, courts have specifically declined to extend the *McDonnell* standard to § 666. *See United States v. Porter*, 886 F.3d 562, 565-66

(6th Cir. 2018) ("In *McDonnell*, the Supreme Court limited the interpretation of the term 'official act' as it appears in § 201, an entirely different statute than the one at issue here[, § 666]."); *United States v. Boyland*, 862 F.3d 279, 291 (2nd Cir. 2017) ("We do not see that the *McDonnell* standard applied to these counts."); *United States v. Maggio*, 862 F.3d 642, 646 n.8 (8th Cir. 2017) ("*McDonnell* had nothing to do with § 666"); *United States v. Jackson*, 688 Fed. App'x 685, 696 n.9 (11th Cir. 2017) (stating that McDonnell was materially different from a prosecution under § 666 because, among other things, "§ 666(a)(1)(B) does not use the term 'official act'"); *United States v. Ferguson*, 2018 WL 1071743, at *4 (E.D. Mich. Feb 27, 2018) ("*McDonnell* does not apply to 18 U.S.C. § 666"); *United States v. Gilbert*, 2018 WL 2095853, at *6-7 (N.D. Ala. May 4, 2018) (declining to "apply the 'official act' requirement to Section 666"); *United States v. Robles*, 698 Fed. App'x 905, 609 (9th Cir. 2017) (pointing out that *McDonnell* "addressed the interpretation of statutes other than § 666."); *United States v. Bravo-Fernandez*, 246 F. Supp. 3d 531, 536 (D.P.R. 2017) (holding that certain Supreme Court decisions, including *McDonnell*, have "nothing to do with section 666").

Petitioner has failed to demonstrate that a retroactively applicable Supreme Court decision establishes that he was convicted of a nonexistent offense. Accordingly, Petitioner has failed to meet his burden of showing that he is entitled to proceed with this § 2241 habeas petition under the savings clause of § 2255.[3]

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[3] In addition to his argument that he was convicted of a nonexistent offense, Petitioner also argues that *McDonnell*

RECOMMENDATION

Based on the foregoing, the undersigned recommends that the Petition [1] for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 be DISMISSED with prejudice.

NOTICE OF RIGHT TO OBJECT

In accordance with the rules and 28 U.S.C. § 636(b)(1), any party within fourteen days after being served a copy of this recommendation, may serve and file written objections to the recommendations, with a copy to the judge, the magistrate judge and the opposing party. The District Judge at the time may accept, reject or modify in whole or part, the recommendations of the Magistrate Judge, or may receive further evidence or recommit the matter to this Court with instructions. The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendations contained within this report and recommendation within fourteen days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed factual findings and legal conclusions accepted by the district court to which the party has not objected. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

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establishes that the United States employed an overbroad reading of Section 666 and that the United States breached the boundaries of federalism. However, Petitioner's entire Petition [1] must be analyzed through the lens of the savings clause. *See Pack*, 218 F.3d at 452. The saving clause requires Petitioner to show that a retroactively applicable Supreme Court decision establishes that he was convicted of a nonexistent offense. As previously discussed, Plaintiff has failed to make this showing.

THIS the 9th day of August, 2018.

s/Michael T. Parker
UNITED STATES MAGISTRATE JUDGE

18 U.S.C.A. § 666

§ 666. Theft or bribery concerning programs receiving Federal funds

(a) Whoever, if the circumstance described in subsection (b) of this section exists—

(1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof—

(A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that—

(i) is valued at $5,000 or more, and

(ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or

(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more; or

(2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $5,000 or more;

shall be fined under this title, imprisoned not more than 10 years, or both.

(b) The circumstance referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

(c) This section does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

(d) As used in this section—

(1) the term "agent" means a person authorized to act on behalf of another person or a government and, in the case of an organization or government, includes a servant or employee, and a partner, director, officer, manager, and representative;

(2) the term "government agency" means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a government or governments for the execution of a governmental or intergovernmental program;

(3) the term "local" means of or pertaining to a political subdivision within a State;

(4) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(5) the term "in any one-year period" means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CRIMINAL NO. 5:13-cr-5-DCB-FKB

18 U.S.C. § 666(a)(1)(B)

UNITED STATES OF AMERICA

v.

PAUL WINFIELD

[*The original is stamped with the following:*]

FILED
MAR 19, 2013
J.T. NOBLIN, CLERK

The Grand Jury charges:

1. At all times material to this Indictment, the City of Vicksburg, Mississippi was a local government, as that that term is defined in Section 666(d), Title 18, United States Code, that received federal assistance in excess of $10,000 during the one-year period beginning January 1, 2012, and ending December 31, 2012.

2. Defendant **PAUL WINFIELD** was the duly elected mayor of the City of Vicksburg, Mississippi, and as such was an agent of Vicksburg, as that term is defined in Section 666(d), Title 18, United States Code.

3. That from on or about July 2012 until on or about December 2012, in Adams County, in the Western Division of the Southern District of Mississippi, and elsewhere, the defendant, **PAUL WINFIELD**, did corruptly solicit, demand, accept and agree to accept multiples things of value from a person, intending to be influenced and rewarded in connection with a transaction and series of transactions of the City of Vicksburg, Mississippi, involving a thing of value of $5,000 or more.

All in violation of Section 666(a)(1)(B), Title 18, United States Code.

NOTICE OF INTENT TO SEEK CRIMINAL FORFEITURE

Upon conviction of Title 18, United States Code, Section 666(a)(1)(B) set forth in this Indictment, the defendant, **PAUL WINFIELD**, shall forfeit to the United State of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offense, including but not limited to:

$7,000.00 MONEY JUDGMENT

If any of the property described above, as a result of any act or omission of the defendant: (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the court; (d) has been substantially diminished in value; or (e) has been commingled with other property which cannot be divided without difficulty, the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as

incorporated by Title 28, United States Code, Section 2461(c).

All pursuant to Section 981(a)(1)(C), Title 18, United States Code, and Section 2461(c), Title 28, United States Code.

s/ Gregory K. Davis
GREGORY K. DAVIS
United States Attorney

A TRUE BILL:
S/SIGNATURE REDACTED
Foreperson of the Grand Jury

This indictment was returned in open court by the foreperson or deputy foreperson of the grand jury on this the 19th day of March, 2013.

s/ F. Keith Ball
UNITED STATES MAGISTRATE JUDGE